

**KIGALI INDEPNDENT UNIVERSITY-ULK**

**SCHOOL OF LAW**

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**SCHOOL OF LAW**

**CRITICAL ANALYSIS OF THE LAW N°59/2008 OF 10/09/2008 ON PREVENTION  
AND PUNISHMENT OF GENDER- BASED VIOLENCE**

**A Dissertation submitted to the School of Law in partial  
fulfillment of the Academic requirements for the award  
of Bachelor's Degree in Law.**

**By NIYIBIKORA William**

**Supervisor: Lecturer KABANDANA**

**Kigali, August 2024**

## **DECLARATION**

I NIYIBIKORA William hereby declare that this dissertation entitled “critical analysis of the Effectiveness of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence under Rwandan legal framework” is my own work and it has never been submitted at Kigali Independent University ULK or in any other High learning Institution in Rwanda and elsewhere for the award of any degree. Wherever other works have been used, references are given in footnotes and a bibliography is presented.

NIYIBIKORA William

Signature.....

**Date: August 2024**

## **APPROVAL**

This is to approve that the research entitled “critical analysis of the Effectiveness of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence under Rwandan legal framework “has been undertaken by NIYIBIKORA William under my supervision as a partial fulfillment of the academic requirements for the award of Bachelor’s Degree with Honors in Law in Kigali Independent University ULK. In my opinion, the work is worthy for public presentation.

**Supervisor: Mr. KABANDANA**

**Signature.....**

**Date August 2024**

## **DEDICATION**

To my Almighty God

To my Parents;

To my brothers and Sisters;

To my relatives and Friends.

## **ACKNOWLEDGEMENT**

I want to thank the Almighty God for life, health and light of reason throughout these years. I similarly thank Good for the strength, fortitude and inspiration that enabled me to complete, not only this dissertation, but the entire LLB Degree. For sure things have not been easier to me and the completion of this work would not have been possible without the material and moral support, cooperation, kindness and guidance of a number of people who deserve special thanks.

My sincere gratitude is extended to the entire administration of Kigali Independent University ULK for providing to me an opportunity to expand my thoughts and my horizons in this amazing program. I am especially grateful to my supervisor Mr. Kabandana who with limited time invested a large amount of effort in guiding me through the entire work. His criticisms improved the focus of this dissertation and clarified some of the vague and uncoordinated sentences. Without him, this work would not fit for academic consumption.

**NIYIBIKORA William**

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

GBV: Gender Based Violence

Art: Article

CCP: Code of Criminal Procedure

NWC: National Women Council

CSOs: Civil Society Organizations

DNA: Deoxyribo Nucleic Acid

FAWE: Forum for African Women Educationalists

FBOs: Faith Based Organizations

GBV: Gender Based Violence

GMO: Gender Monitoring Office

HIV: Human Immunodeficiency Virus

Ib: Ibidem

Id: Idem

IDLO: International Development Law Organization

IHL: International Humanitarian Law

ILO: International Labor Organization

JOs: Judicial Officers

KFL: Kigali Forensic Laboratory

LLB: Law Level Bachelor

LTR: Land Tenure Registration

MAJ: Maison d'Accès à la Justice

MIGEPROF: Ministry of Gender and Family Promotion (Rwanda)

MP: Member of Parliament

NGOs: Non-Governmental Organizations

NIDA: National Identity Agency

No: Number

NPPA: National Public Persecution Authority

OFJC: Organization Functioning and Jurisdiction of Courts

P.g: Page

RCS: Rwanda Correctional Service

RIB: Rwanda Investigation Bureau

RNLC: Rwanda Natural Land Center

RNP: Rwanda National Police

RWP: Rwandan Women Parliamentarians

ULK : Université Libre de Kigali

UN: United Nations

UNCRC: United Nations Convention on the Rights of the Child

UNICEF: United Nations Children's Fund

UNIFEM: United Nations Development Fund for Women

## **GENERAL INTRODUCTION**

Gender-based Violence is a broader concept which encompasses variety meanings for any harmful act that is perpetrated against a person's will and usually based on socially ascribed gender differences between males and females, such acts include acts of physical, emotional and sexual violence, forced and early marriage, and sexual exploitation and abuse. Several studies indicate that everyone regardless the age and gender can be a victim of gender-based violence; however, the most vulnerable groups are children and women. Furthermore, reports indicate that the types and extent of specific gender-based violence differ across cultures, countries and regions<sup>1</sup>.

### **1.1. Background of the study**

Along-side with the above, the reports indicate that although women and children are more vulnerable of sexual and all other forms of gender- based violence than men. Furthermore, poorly educated women, and economically dependent on their male partners remain more vulnerable with men being perpetrators due to unequal power between both gender (Report of National gender and equality commission, 2017). With respect to children, they are as well vulnerable; however, the report revealed that the most exposed to gender-based violence cases are those living with disabilities whose experience that violence when separated from their carer (Donna, 2017)<sup>2</sup>. Being aware and sensitive of Gender Based Violence issues and inherent consequences, governments and states have taken mechanisms aiming at protecting the vulnerable groups and minimizing the risks of those underwent the violence. One among the mechanisms taken is commonly known as “a referral pathway of Gender Based Violence” or a reporting system of which involves the exchange of information between entities having responsibilities of handling and managing GBV cases from the grassroots up to national level<sup>3</sup>.

The Government of Rwanda, through the 7 Years Government Program, the National Strategy for Transformation (NST1) 2017 to 2024 committed to strengthen prevention and response strategies

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<sup>1</sup> Rwanda, U. N. I. F. E. M. (2008). Baseline survey on sexual and gender-based violence in Rwanda. Kigali: UNIFEM.

<sup>2</sup> REPUBLIC OF RWANDA. MINISTRY OF GENDER AND FAMILY PROMOTION. National Policy against Gender-Based Violence. July 2011.

<sup>3</sup> Challenging Gender-based Violence Worldwide: CARE's Program Evidence - Strategies, Results, and Impacts of Evaluations 2011-2013.

to fight gender-based violence (GBV) and child abuse. Specific interventions will include; establishing and strengthening family cohesion home grown initiatives and implementing the integrated health care services for Gender Based Violence victims. In addition, partnerships will be strengthened with the Private sector, CSOs, Faith Based Organizations as well as to conduct community awareness campaigns for fighting Gender Based Violence and child abuse. Ensure that orphans are raised in families through; conducting awareness campaigns on “Tubarere Mu Muryango” program, reintegrating and following up reintegrated children as well as building the capacity of family protection volunteers/ Inshuti z’Umuryango, all of these programs had been created<sup>4</sup>.

Many consider Gender Based Violence as a synonym of violence against women, however there are differences between the two. For instance, the UN General Assembly (1993) defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion arbitrarily deprivations of liberty, whether occurring in public or private life.” The Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender-based violence, defines GBV as any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. Such act results in the deprivation of freedom and negative consequences. This violence may be exercised within or outside the household<sup>5</sup>. Gender- based violence may be applied in marriage while contract entered between a man and a woman without the will of one of the contracting spouses; in the polygamy while one person marries a second spouse while the marriage with the first one is still valid, in the concubinage while two people living permanently as if they were spouses though they are not married while one of them is legally married<sup>6</sup>.

It may be seen also in adultery while one is having sex with a person who is married to someone else, in rape while person is involved into sexual intercourse without consent, by force, intimidation, traces and others, in conjugal rape that is coercing a spouse into sexual relations without that spouse’s consent, by way of force, intimidation, traces and others, in forcible abduction while abduction of someone by force or fraud for the purpose of marital union; in sexual

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<sup>4</sup> Leone, S. (2001). Ministry of Social Welfare, Gender and Children’s Affairs. National Policy on the Advancement of Women.

<sup>5</sup> Article 2 of the law n°59/2008 OF 10/09/2008 on prevention and punishment of gender- based violence

<sup>6</sup> Article 2 of UN General Assembly (1993), p2



slavery aimed at achieving self-satisfaction, using influential authority, economic power or any other ways of achieving self-sexual satisfaction. It may be aimed at sexual intercourse, physical touching, undress and photographing, exposing him/her, nakedness and eroticism exhibition, making one's sex touch other parts of the body and others; in indecency while making acts or behavior different from good morals and politeness, degrading human being; in harassment by putting someone in unrest condition by persecuting, nagging, scorning or insulting him/her and others<sup>7</sup>

Rwanda like other countries around the world is not spared of facing challenges related to gender based violence. With respect to definition of Gender Based Violence, it may be argued that there is no common understanding or a universal definition of what GBV, however all definitions provided as results of cultural context have some aspect in common. Many consider GBV as a synonym of violence against women, however there are differences between the two. For instance, the UN General Assembly (1993) defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion arbitrarily deprivations of liberty, whether occurring in public or private life.” The Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender-based violence, defines GBV as “any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. Such act results in the deprivation of freedom and negative consequences. This violence may be exercised within or outside the household<sup>8</sup>.

## **1.2. INTEREST OF THE STUDY**

Making a choice about the present topic for research is a crucial and an important decision that may influence studies, and future potential development in legal research. Taking this into consideration, I preferred to carefully choose this specific topic entitled “critical analysis of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence” because of three main interests namely personal interest, academic interest and legal interest.

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<sup>7</sup> Article 2 of the law n°59/2008 OF 10/09/2008 on prevention and punishment of gender- based violence

<sup>8</sup> The Rwandan Law n° 59/2008 of the 10/09/2008 on prevention and punishment of gender-based violence

### **1.2.1. The personal interest**

The personal interest is that the present work is that the author wants to contribute to the Rwandan law in the process of preventing and punishing gender- based violence by the law and fair trial.

### **1.2.2. The academic interest**

The academic interest is the requirement of the university's internal rules and regulations in conformity with High Education Council (HEC) that every student at the end of higher learning education should write a dissertation not only to show what She/He has learned during academic period but it will also serve as reference by other future researchers who will be interested in the same field.

### **1.2.3. The Scientific Interest**

The Scientific interest is to show gaps and challenges observed in law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence, and make conclusion and recommendation on these gaps and challenges.

## **1.3. DELIMITATION OF THE STUDY**

The study shall be delimited in space, domain and time.

1.3.1. In space, the study is mainly limited on the Rwandan territory.

1.3.2. In domain, it is limited in domestic law for the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence with some examples of international case laws and doctrines to clearly understand the best practice.

1.3.3. In time, this starts in 2008, because the law on prevention and punishment of gender- based violence published in Official Gazette n°14 of 06 04 2009.

## **1.4. Problem statement**

Rwanda has seen impressive advances in integrating gender equality and fighting gender-based violence (GBV) in recent years. This has included a body of laws, policies and strategic plans which constitute a strong institutional framework through which to address the issue. To understand the national policy context for adolescent health, psycho-social wellbeing and bodily integrity, I used the legal analysis framework to examine the challenges and gaps that are in law preventing and punishing Gender Based Violence (GBV).

While there is law preventing and punishing gender-based violence, the Rwandan women, girls, children in general and even men are exploited in involuntary domestic servitude within the country; they experience physical or sexual and psychological abuse within their home families, schools as well employer's household<sup>9</sup>.

Although governments and states have taken some measures of reducing such case, there has been an increment of cases of GBV as the time passes by GBV cases are neither a particular concern of developing countries but also the developed ones as well countries under development<sup>10</sup>. It is with that regard that all concerned bodies-initiated strategy to map out GBV service providers, assess the efficiency of the existing one, clarifying the responsibilities and finding out the gaps. As there are many organizations in charge of GBV cases; however, their staff's responsibilities are overlapping. Moreover, it was revealed that some GBV cases are not reported or reported late due to culture of silence and the existing referral system is complex. Beyond this point, participants revealed that some people do not consider GBV not involving physical harm as violence cases. While there is law preventing and punishing gender-based violence, the Rwandan women, girls, children in general and even men are exploited in involuntary domestic servitude within the country; they experience physical or sexual and psychological abuse within their home families, schools as well employer's household<sup>11</sup>.

The fact that Rwanda is a fast-developing country in the region, the reason why the conflicts related to land rights and crime on gender based violence is also taking another shape, the gender based violence as the results in a bodily, psychological, sexual and economic harm resulting in the deprivation of freedom and negative consequences to men, women, girls and children being

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<sup>9</sup> gender-based violence (GBV) indicators developed by GMO, Kigali, August 2011.p3-10

<sup>10</sup> Ibid

<sup>11</sup> gender-based violence (GBV) indicators developed by GMO, Kigali, August 2011.p3-10

exercised within or outside households them in Rwanda is taking a step and we should take action to seriously fight against this inhuman act before it goes further along<sup>12</sup>.

However, the law defined gender-based violence broadly, thus some gaps of malpractice are still observed as illegal adoption for the purpose of sexual exploitation, deprivation of land and property rights and inequality in non-paid works at home between women and men, girls and boys. The fact that the government did not publish disaggregated data on how deprivation on the land and property rights as well as equal share on non-paid works at is implanted country wide, but some civil society organization continue to urge that women and girls are still facing these challenges<sup>13</sup>.

Article 39 of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence stipulates those legalizing unlawful marriages and common assets distribution, where the law provides that people entertaining unlawful marriages shall be married in accordance with the monogamous principle. If a person concerned with the provision of previous paragraph of this article was living with many husbands/wives, he/she shall first of all share the commonly owned belongings with those husbands/wives equally. The property distribution referred to in paragraph 2 of this article shall not entrench on the children's legally recognized rights. Modalities of such distribution shall be determined by an Order of the Minister in charge of Local Government, even though this order of the Minister is not yet published since 2008, also it is a gap in this law. Therefore, research intends to overcome the following research questions:

### **1.5. Research Questions**

1.To what extent does the law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence cover various forms of GBV, including physical, sexual, emotional, and economic violence?

2.What are the legal mechanisms that are in place for preventing Gender Based Violence to eliminate all forms of GBV?

### **1.6. Hypotheses of the study**

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<sup>12</sup>

<sup>13</sup> law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence, art 19-29, page 97-101

Hypotheses are tentative responses to the research questions formulated previously within the problem statement; they will be in conformity with the above-mentioned research questions<sup>14</sup>. We formulated the following hypotheses in accordance and in conformity with the questioned research questions within the problem statement. Here are the research hypotheses:

1. There are different gaps in the law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence such as reluctance to report psychological like Post-Traumatic Stress Disorder (PTSD), Depression and Anxiety and Low Self-Esteem and Self-Worth, sexual like child defilement and rape and missing clear provisions on economic harm either on spouses' unlawful marriages and their families' members while one or both died without leaving behind child.

2. Legal and institutional mechanisms such as Ministry of Justice, Gender Monitoring Office and Decentralized entities should be undertaken to effectively preventing, punish and eliminate all forms Gender Based Violence.

### **1.7. Objectives of the study**

Objectives of the study are of two forms, General objective and specific objectives

#### **1.7.1. General objective**

To critically analyze the impact of gender-based violence (GBV) laws on the prevention and punishment of GBV as well as the empowerment of survivors of GBV in Rwanda.

#### **1.7.2. Specific objectives**

Specifically, this study aims at:

- a) To assess the effectiveness of existing GBV laws in Rwanda in reducing instances of violence.
- b) To evaluate the psychological impact of GBV on survivors and the support systems available to them.
- c) To analyze the role of community education and awareness programs in preventing GBV.
- d) To investigate the legal and institutional challenges faced in the implementation of GBV laws.

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<sup>14</sup> Kinney. and Haken,J (2008:1-2)

- e) To provide recommendations for enhancing the legal framework and support services for GBV survivors in Rwanda.

## **1.8. Research methodology and techniques**

Methodology is the systematic, theoretical analysis of the methods applied to a field of study, or the theoretical analysis of the body of methods and principles associated with a branch of knowledge.<sup>15</sup>

### **1.8.1. Research Techniques**

Techniques are the means and procedures that enable the researcher in the collection of information about a certain topic. To answer the fundamental questions raised in problem statement, the researchers used the documentary technique which helped the researcher to collect the data through the reading of the written works, scientific works and the international instruments relating to this topic of the study.

#### **1.8.1.1. Documentary technique**

This documentary technique consists in collecting data through the reading of the law documents containing the information relating to the research topic. It is quite obvious that for the law graduates or law researchers cannot escape this method of documentation since lawyers are to refer to legal facts and those legal facts are to be found within different documentations of law.<sup>16</sup>

The documentation technique is related to the historical method which studies past events through traces they left behind. It is actually to use of outside sources, documents, to support the viewpoint or argument of an academic work. The process of documentary research often involves some or

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<sup>15</sup>My, S.I. and Rose, A.A. (2005) "Designing a Strategic Information Systems Planning Methodology for Malaysian Institutes of Higher Learning (isp-ipta), Issues in Information System, Volume VI, No. 1, 2005

<sup>16</sup><https://instr.iastate.libguides.com/c.php?g=49332&p=318070>[accessed on 16/01/2021]

all of conceptualizing, using and assessing documents that we shall take into consideration to improve our research. According to my research topic it is obvious that we shall be using different reports on the gender-based violence in Rwanda law preventing and punishing Gender based violence as well as several cases and doctrine relating to this criminal act and the related consequences<sup>17</sup>.

## **1.8.2. RESEARCH METHODS**

The concept of method refers of theory which is a way to apprehend and to explain reality. The method is set of GBV which are enable to analyze, to understand and explain the analyzed reality or else to structure. It is also a way of making analysis in order to reach the result. In fact that, the result has been meaningful and coherent text.

According to Grawitz M.<sup>18</sup>, a method is the entire intellectual operations that knowingly coordinated; by which science seek to achieve the realities that it strives towards. Therefore, in this study the researchers made analysis and interpretation, the following methods was used:

### **1.8.2.1. Exegetic method**

The exegetic is an adjective which from the world ‘exegesis’ in English derives from the Greek verb *exegeisthai* which means to lead or to show the way to expound, interpret or explain something, and the Greek noun exegesis, statement, narrative, explanation or interpretation. The task of exegesis involves looking at the biblical text and setting forth your understanding of the text in a way that is comprehensible to others and illuminating for yourself and for them<sup>19</sup>. Exegesis is a critical explanation or interpretation of a text, particularly a religious text. Traditionally the term was used primarily for work with the Bible; however, in modern usage biblical exegesis is

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<sup>17</sup> Ibid

<sup>18</sup> Grawitz M., *Méthodes Des Sciences Sociales* (4.78 avg rating, 9 ratings, 0 reviews, published 1976

<sup>19</sup> Divine Discourse “Epistle to the Hebrews The Recontextualization of Spoken Quotations of Scripture” p.1-34

used for greater specificity to distinguish it from any other broader critical text explanation. This method will help us to analyze and interpret the legal texts, different jurisprudence.<sup>20</sup>

### **1.8.2.2. Analytical method**

The Analytical method is a generic process combining the power of the Scientific method with the use of formal process to solve any type of problem. This method will enable me to make the systematic analysis of information and data collected.<sup>21</sup>

### **1.8.2.3. Synthetic method**

Synthetic method is an adjective that comes from the verb to synthesize, which means to form a substance by combining parts or elements. In research sometime the data are found in global image and need to be synthesized so as to be oriented in accordance with the research purpose. This method will help us to summarize the collected data in a very clear and concise manner<sup>22</sup>.

## **1.9. Subdivision of the study**

Besides the general introduction, the study is structured into three chapters.

- The first chapter shall be dedicated to conceptual and theoretical framework of Gender Based Violence
- He second chapter shall be the gaps in the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence.
- The third chapter focuses on the strong legal and institutional mechanisms to be undertaken to effectively eliminate all forms Gender Based Violence.

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<sup>20</sup>The Biblical Commission's Document "The Interpretation of the Bible in the Church" Text and Commentary; ed. Joseph A. Fitzmye

<sup>21</sup> Grawitz M., Méthodes Des Sciences Sociales (4.78 avg rating, 9 ratings, 0 reviews, published 1976

<sup>22</sup> Cellucci, Carlo the Analytic-Synthetic Method (2013/01/17. VL 1.p.45-98



As an academic work, it shall have a general conclusion and recommendations as well as bibliography.

## **I.CONCEPTUAL AND THEORETICAL FRAMEWORK OF GENDER BASED VIOLENCE**

### **1.1. Conceptual Framework**

The conceptual framework for understanding gender-based violence (GBV) in Rwanda provides a structured ways to analyze the various factors contributing to GBV and the mechanisms through which it can be addressed.

#### **1.1.1. Gender**

It is a concept that refers to responsibilities, rights, opportunities, respect and value a person receives from society in accordance with his/her sex, and which is likely to change in relation to time, culture and other criteria<sup>23</sup>.

#### **1.1.2. Gender disparities**

It is an inequalities between women and men in terms of their role in all activities, opportunities and rights in general<sup>24</sup>.

#### **1.1.3. Gender equality**

It is a situation where women and men fully enjoy the same opportunities in fulfilling their human rights and utilizing their potential, and gain access to equal participation in all developmental

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<sup>23</sup> Paragraph one, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

<sup>24</sup> Paragraph two, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

activities from a political, economic, social and cultural perspective, and benefit equally from related results<sup>25</sup>.

#### **1.1.4. Gender based violence**

It is any behavior aimed at sexual relations or any other sexual behavior which affects the dignity of a male or a female victim, whether such behavior may be from a superior at the work place, school or whether from families as well as from elsewhere<sup>26</sup>.

#### **1.1.5. Gender and development**

It is the development planning process that is based on analysis and integration of various situations and needs of women and men aimed at creating conditions for the development of gender equality and complementarity<sup>27</sup>.

#### **1.1.6. Gender mainstreaming in development programs**

It is a process which aims at sensitizing all organizations to recognize gender and restore delays in gender development programs<sup>28</sup>.

#### **1.1.7. Physical Violence**

Acts causing physical harm, such as beating, slapping, or assault, it is an act of physical violence that is not sexual in nature which can cause either external or internal body injuries, this form of violence usually occurs in intimate partner relationships, it can include forms of violence or

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<sup>25</sup> Paragraph three, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

<sup>26</sup> Paragraph four, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

<sup>27</sup> Paragraph five, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

<sup>28</sup> Paragraph six, for article 2 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda

neglectful acts that cause physical pain or injury, for examples hitting, slapping, choking, shoving, grabbing, pinching, biting, hair pulling, burning, strangulation, cutting, shooting or use of any weapons. This type of abuse also includes forced pregnancy, forced abortion, knowingly transferring sexually transmitted infections, and denial of medical care, this physical violence can be perpetrated by a spouse, intimate partner<sup>29</sup>.

### **1.1.8. Emotional and Psychological Violence**

This is the infliction of mental or emotional pain or injury, which includes violence perpetrated in a non-physical manner usually occurs by an intimate partner or person in a position of authority that is intended to frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure or wound, this forms of emotional or psychological violence such as insulting, degrading, demeaning; compelling the survivor to engage in humiliating acts, whether in public or private; denying basic expenses for family survival; or undermining self-worth and self-esteem, the verbal abuse or humiliation can be perpetrated by anyone in a position of power and control; often perpetrated by intimate partners or family members in a position of authority<sup>30</sup>.

#### **1.1.8.1. Psychological Abuse**

Elements of psychological abuse include, but are not limited to, causing fear by intimidation; threatening physical harm to self, survivor, children, or her family or friends; destruction of pets, property or cherished items; or forcing isolation from her family, friends, or school and/or work. Psychological abuse can be perpetrated by an intimate partner or relative<sup>31</sup>.

#### **1.1.8.2. Confinement**

This includes isolating a person from friends/family, restricting movement, deprivation of liberty or restriction of the right to free movement, confinement can be perpetrated by anyone in a position

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<sup>29</sup> United Nations Development Fund for Women (UNIFEM). 2003. Not a Minute More: Ending Violence Against Women. New York: UNIFEM. p. 15.

<sup>30</sup> World Health Organization. Violence Against Women Information Pack: A Priority Health Issue. in Ward, J., J. Kirk, L. 2005. Nairobi. p. 3

<sup>31</sup> Ibid

of power and control; often perpetrated by spouses, intimate partners or family members in a position of authority<sup>32</sup>.

### **1.1.9. Social or Economic Violence**

This includes violence perpetrated in a non-physical manner, usually by an intimate partner or embedded in laws and policies that deny women and girls access to income or earnings and social opportunities for advancement, other examples includes discrimination or denial of opportunities, services or resources; exclusion; denial of access to education, health assistance or remunerated employment; or denial of property rights, discrimination or denial of services can be perpetrated by family members, society, institutions and organizations, government actors which aims at making or attempting to make the survivor financially dependent by maintaining control over financial resources, withholding access to money, or forbidding participation in school or employment opportunities<sup>33</sup>.

#### **1.1.9.1. Early Marriage**

This includes arranged marriage under the age of legal consent. Sexual intercourse in such relationships constitutes statutory rape, as girls are not legally competent to agree to such unions, this can be perpetrated by parents, communities, and states<sup>34</sup>.

#### **1.1.9.2. Forced Marriage**

This is an arranged marriage against the survivor's wishes, it often a dowry is paid to the family, when refused, there can be violent or abusive consequences, forced marriage can be perpetrated by parents and family members.

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<sup>32</sup> Heise, L., M. E Isberg, and M. Gottemoer. 1999. "Ending Violence Against Women." Population Reports XXVII, Number 4, Series L, Number 11.

<sup>33</sup> Barker, Gary and Christine Ricardo. 2005. "Young Men and the Construction of Masculinity in Sub-Saharan Africa: Implications for HIV/AIDS, Conflict and Violence." Social Development Papers, Conflict Prevention and Reconstruction. Paper No. 26. Washington, DC: World Bank. p. 4.

<sup>34</sup> Women Enjoy Punishment: Attitudes and Experiences of Gender-Based Violence Among PHC Nurses in Rural South Africa. Social Science & Medicine. 54(8):1243.

### **1.1.9.3. Intimate Partner Violence**

This is also called domestic violence or spousal abuse and may involve several different types of violence, this is a pattern of abusive behavior in an intimate relationship that is used by one person (who is usually a man) to gain or maintain power and control over the other person (who is usually a woman), it can be in the form of physical, sexual, emotional, economic, reproductive, spiritual or psychological actions or threats or stalking or monitoring, this includes any behaviors that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure or wound. Intimate partner violence is characterized by a cycle of violence as the violence happens repeatedly over time and by behaviors used to establish power and control, this can result in pregnancy, HIV/AIDS, injuries and emotional trauma<sup>35</sup>.

### **1.1.9.4. Sexual Violence**

Non-consensual sexual acts, including rape and sexual harassment, it is any completed or attempted sexual act against a person's will or against a person unable to give consent. Forms of sexual violence includes Rape, the non-consensual penetration of any part of the body (vagina, anus or mouth) of the survivor with a sexual organ, or with any object or any other part of the body by force, threat of force, environment, or against a person incapable of giving genuine consent, it can be perpetrated by any person in a position of power, authority and control, including a husband, intimate partner or caregiver<sup>36</sup>.

### **1.1.9.5. Sexual Assault**

Any unwanted, non-consensual sexual contact that does not include penetration, this includes forced or unwanted kissing, fondling, unwanted touching of a person's body, touching genital areas with body parts or other objects without penetration, attempted rape, and female genital mutilation

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<sup>35</sup> Ibid

<sup>36</sup> Jejeebhoy, Shireen and Sarah Bott. 2003. "Non-Consensual Sexual Experiences of Young People: A Review of the Evidence from Developing Countries." South and East Asia Regional Working Papers 16. New Delhi: Population Council.

or cutting, this can be perpetrated by any person in a position of power, authority and control, including husband, intimate partner or caregiver<sup>37</sup>.

#### **1.1.9.6. Child Sexual Abuse (defilement)**

Any act where a child is used for sexual gratification including any sexual relations/interactions with a child, child sexual abuse can be perpetrated by someone the child trusts, including a parent, sibling, extended family member, friend or stranger, teacher, elder, leader or any other caregiver, anyone in a position of power, authority, and control over a child<sup>38</sup>.

#### **1.1.9.7. Forced Sodomy / Anal Rape**

This is the forced or coerced anal penetration or intercourse, usually male to male or male to female, forced sodomy/anal rape can be perpetrated by any person in a position of power, authority, and control<sup>39</sup>.

#### **1.1.9.8. Sexual Exploitation**

An actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, this includes profiting monetarily, socially or politically from the sexual exploitation of another, sexual exploitation can be perpetrated by anyone in a position of power, authority, influence, or control, including humanitarian aid workers, soldiers/officials at checkpoints, teachers, smugglers, or trafficking networks<sup>40</sup>.

#### **1.1.9.9. Forced Prostitution**

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<sup>37</sup> United Nations Children’s Fund, International Rescue Committee, Christian Children’s Fund, Legal Aid Project. 2004.

<sup>38</sup> Bureau for Global Health. 2004. Bureau for Global Health Strategy for Female Genital Cutting (FGC/M). Washington, DC: United States Agency for International Development.

<sup>39</sup> E Isberg, M. and B. Shane. 2002. “Violence Against Women: Effects on Reproductive Health.” Outlook 20(1).

<sup>40</sup> Ibid

This is forced or coerced sex in exchange for material resources, services and assistance, usually targeting highly vulnerable women or girls unable to meet basic human needs for themselves and/or their children, forced prostitution can be perpetrated by any person in a privileged position, in possession of money or control of material resources and services, perceived as powerful, including humanitarian aid workers<sup>41</sup>.

#### **1.1.9.10. Sexual Harassment**

This includes any unwanted, unwelcomed sexual comments, advances, or requests for sexual favors that humiliate, threaten, or embarrass a person. It usually involves a continuous pattern of harassment ranging from uninvited touching, sexist remarks and or/jokes and verbal, visual, or physical conduct of a sexual nature, sexual harassment can be perpetrated by anyone, employers, supervisors or colleagues, and a person in a position of power, authority, or control<sup>42</sup>.

The conceptual frameworks for analyzing gender-based violence in Rwanda provide a comprehensive understanding of the issue, encompassing its causes, impacts, and mechanisms for prevention and response, by integrating these frameworks, policymakers, practitioners, and researchers can develop more effective strategies to combat GBV, promote gender equality, and support victims in Rwanda as addressing the root causes of GBV, challenging societal norms, and enhancing support services are critical steps towards creating a safer and more equitable society for all<sup>43</sup>.

#### **1.1.10. One stop center**

It is a place that receives victims of gender-based violence, offers them emergency medical care, psycho-social relief and legal assistance to start investigations, and helps gathering evidence of gender-based violence<sup>44</sup>.

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<sup>41</sup> Best, Kim. 2005. "Non-Consensual Sex Undermines Sexual Health," Network 23(4).

<sup>42</sup> Martinez, Katherine Ha I, ed. 1998. Women's Reproductive Rights in Tanzania: a Shadow Report. New York: Center for Reproductive Law and Policy.

<sup>43</sup> Amnesty international. 2004. Casualties of War: Women's Bodies, Women's Lives

<sup>44</sup> Article 2 of prime minister's order n°001/03 of 11/01/2012 determining modalities in which government institutions prevent and respond to gender-based violence

## 1.2.Theoretical Framework of Gender-Based Violence in Rwanda

Understanding gender-based violence (GBV) in Rwanda requires the application of multiple theoretical perspectives that elucidate the underlying causes, dynamics, and potential solutions for this pervasive issue. While this framework addresses all forms of GBV that occur and puts forward strategies to prevent, mitigate and respond to such violence, in alignment with the theory of Change, to put a particular focus on GBV prevention, domestic violence and early marriage in humanitarian action<sup>45</sup>. The feminist theories and the feminist movements have vehemently demonstrated that knowledge cannot be considered neutral or objective, traditionally, researchers have engendered knowledge on the basis of the dominant perspective and behavior in society, which was the male one (androcentrism), as a consequence, knowledge has been blind to the specific historical, political, social and personal conditions on which it was reported, making invisible gender differences. Feminist epistemologies have claimed that knowledge is dynamic, relative and variable and that it cannot be considered an aim itself but a process. Taking into account this idea, the theoretical and methodological proposal of this project is based on the following principles as gender inequalities and the promotion of women’s rights, interests and issues, are the common basis of the feminist studies and their epistemological concerns, despite the fact that their multiple meanings of gender and the concept of gender itself has been criticized (e.g. Butler, 2000; Breines, Connell and Eide, 2000)<sup>46</sup>.

- Violence against women “constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms” (Declaration on the Elimination of Violence against Women, UN, General Assembly Resolution 48/1004 of 20 December 2003);
- There are many expressions of violence against women and new ones can appear according to the development of the social changes and the social dynamics;
- Violence against women has multiple and multidimensional effects, but all of them have the common denominator of being gender based;

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<sup>45</sup> Watson, J., (2011). Understanding survival sex: young women, homelessness and intimate relationships”, *Journal of Youth Studies* No 14.

<sup>46</sup> Alvi, M.H. (2016). *A Manual for Selecting Sampling Techniques in Research*, University of Karachi, Iqra University. (HPN)/Overseas Development Institute (ODI), No 60, February 2014.



- From a feminist perspective, the best way to know something about violence against women and its effects is by hearing the voices of the women that have experienced this phenomenon<sup>47</sup>.

### **1.2.1. Rapid Gender Analysis**

To analyse the different needs and capacities of women, men, boys and girls during a humanitarian response, including their specific risks for, experiences of, coping strategies and response needs for gender-based violence (GBV)<sup>48</sup>.

### **1.2.2. Minimum Standards/Commitments**

The Practical Guidance for Humanitarian Practitioners' (forthcoming May 2019)<sup>4</sup> mainstream gender and GBV risk mitigation in all response sectors (Food Security, Nutrition & Livelihoods; Shelter & Settlements; sexual and reproductive health (SRH) in emergencies (SRH-E) and water, sanitation and hygiene (WASH) and modalities (cash and voucher programming)<sup>49</sup>.

### **1.2.3. Mainstreaming GBV**

The actions focus on modifying the way that CARE conducts activities to ensure that they recognize and address the different needs, capacities and vulnerabilities of people of different genders/ages. For example, in Shelter & Settlement programming, ensure equal and impartial distribution of shelter materials by establishing clear, consistent and transparent distribution systems and ensuring that at-risk groups have the same access to the materials<sup>50</sup>.

The actions of prevention, risk mitigation and referrals to specialized services are addressed through action approach or sector responsible, prevention mainstreaming and integration

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<sup>47</sup> Ibid

<sup>48</sup> Wirtz A., Pham, K., Glass, N., Loochkartt, S., Kidane, T., Cuspoqa, D., Rubenstein, R., Singh, S., and Vu, A (2014)

<sup>49</sup> Ibid

<sup>50</sup> Aquino, K., (2014) "Storm of Violence, Surge of struggle: Women in the Aftermath of Typhoon Haiyan (Yolanda)" Asian Center for Women's Studies, Vol. 20 No. 1, 2014, pp. 148-163.

mainstreaming approaches where everyone on the programmed team is responsible for ensuring that GBV prevention, risk mitigation and referrals are carefully and (interventions that address root causes to prevent GBV from first occurring) integration mitigation in all sectors, this mainstreaming deliberately mainstreamed or integrated, as appropriate, into all programming<sup>51</sup>.

#### **1.2.4. Integrating GBV**

The measures involve including explicit objectives, activities and indicators on gender, diversity and GBV prevention and risk mitigation in all sectorial and multi-sectorial activities. Include a specific objective with indicator(s) around the active participation of women in Shelter & Settlement-related committees, including specific measures if necessary for training, creating space for them to participate in all decision-making processes<sup>52</sup>. It is important to note that both mainstreaming and integration activities, like standalone activities, require the explicit inclusion of financial and human resources necessary to ensure that they are implemented fully, therefore, central idea for preventing, punishment, mitigating and responding to GBV is the strategy of including distinct types of actions, mainstreaming and integration across all sectorial and multi-sectorial programming as well as standalone programming<sup>53</sup>.

#### **1.2.5. Engaging men and boys**

Government of Rwanda through its institutions and key stakeholders committed to engaging with men and boys to prevent, punish and mitigate GBV, to foster positive masculinities and promote gender equality to prevent the perpetration of GBV before it happens, it believes that it is critical to discuss issues around masculinity, including the hierarchies of power that exist between and held by men, which place some men in position of power and others who hold intersecting identities in vulnerable positions, while at the same time holding certain spaces of power that privilege them over women and children; and challenging aggressive stereotypes of masculinity, it will take measures

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<sup>51</sup> Ariyabandu, M.M. (2009), “Sex, Gender and Gender relations in Disasters” in Enarson, E., and Chakrabati, P.G, (Ed.) (2009) Women, Gender and Disasters: Global Issues and Initiatives Sage Publications: Delhi.

<sup>52</sup> Asika, N. (2010). Research Methodology in the Behavioural Sciences. Ikeja: Longman at: <http://odihpn.org/magazine/gender-based-violence-in-emergencies>

<sup>53</sup> Austin, D.W. (2016) “Hyper-masculinities in disaster: the reconstruction of hegemonic masculinity in the wake of calamity” in Enarson E., and Pease, B., (2016) Men, Masculinities and Disasters Routledge: Oxon.

to engage men and boys in GBV awareness and behavior-changing initiatives and ensure that GBV prevention work also seeks to educate men and boys about women's rights, as well as the benefits to them, their households and communities of gender equality, dignity and respect for women. Again, this intervention will draw on work in the development sphere, where relevant<sup>54</sup>.

#### **1.2.6. Advocacy and influence for structural change**

This to support advocacy aimed at advancing effective policies, practices, plans and programs at the international and regional levels; and to ensure adequate GBV response in Humanitarian Response Plans or national response strategies at the national level, increasing policy support and funding for GBV prevention and risk mitigation and ensuring increased recognition, support and funding for domestic violence and child marriage in emergencies, supporting women and local women-led groups to participate meaningfully in decision-making, project implementation and accountability efforts on GBV prevention and response humanitarian assistance and protection, disaster risk reduction (DRR) and peace-building policies and programs<sup>55</sup>.

#### **1.2.7. Social indicators as the framework of Gender Violence Effects Indicators**

According to Gabàs, “social indicators can be understood as quantitative measurements of a social phenomenon, its presence or its absence in the social reality”. Indicators are quantitative data often presented as “statistical information chosen specifically to shed light on a specific economic, demographic or social problem or question. Indicators can be a single figure or distribution; figures can be expressed as numbers, percentages, rates or ratios”<sup>3</sup>. The challenge therefore, is to capture qualitative information and to transfer it into quantitative indicators to give visibility to a social phenomenon. In this way, social indicators can be useful tools in planning, policy-making, research and general monitoring of social and living conditions, where “Social indicators are needed to find pathways through the maze of society's interconnections, they delineate social states, define social

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<sup>54</sup> <http://odihpn.org/magazine/Gender-based-violence-inemergencies/> Accessed: 18 May 2024.

<sup>55</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/23.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/23.pdf) Accessed 30 May 2024

problems and trace social trends, which by social engineering may hopefully be guided towards social goals formulated by social planning<sup>56</sup>.

### **1.2.8.Patriarchy and Gender Inequality**

Patriarchy and Feminist theory posit is that GBV is rooted in patriarchal structures that enforce male dominance and female subordination, patriarchy manifests in social, economic, and political inequalities that perpetuate the power imbalance between genders, where gender Roles as societal norms that prescribe specific roles and behaviors for men and women contribute to the normalization of violence against women when these roles are challenged or transgressed<sup>57</sup>.

### **1.2.9.Ecological Model and multilevel Influences**

Individual Level, where personal history, psychological factors, and biological influences that may predispose individuals to experience or perpetrate GBV, relationship Level as well as dynamics within intimate relationships and families, such as power imbalances, conflict, and communication patterns, while community Level increase social environments, including peer groups, schools, workplaces, and neighborhoods, that can either mitigate or exacerbate GBV, broadly societal Level focusses on the societal factors, such as cultural norms, economic policies, legal frameworks, and systemic inequalities<sup>58</sup>.

### **1.2.10. Social learning theory, behavioral modeling and reinforcement**

The observational Learning as GBV behaviors are learned through observing and imitating others, particularly when such behaviors are modeled by influential figures or normalized within the community, where reinforcement and violent behaviors are reinforced when they are rewarded or when there are no significant negative consequences for perpetrators<sup>59</sup>.

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<sup>56</sup> Braun, V., and Clarke, V. (2006) "Using thematic analysis in psychology" *Qualitative Research in Psychology* 2006, 3: pp. 77-101.

<sup>57</sup> Blaxter, L.; Hughes, C.; & Tight, M. (2010). *How to Research*, 2nd Ed. (Open University Press, Celtic Court 22 Ballmoor Buckingham MK18 1XW).

<sup>58</sup> Ibid

<sup>59</sup> Braun, V., and Clarke, V. (2006) "Using thematic analysis in psychology" *Qualitative Research in Psychology* 2006, 3: pp. 77-101.

### **1.2.11. Theory of gender and power, structural and interpersonal power dynamics**

The Sexual division of labor, is the unequal distribution of economic and domestic roles between men and women, reinforcing economic dependence and power imbalances, while sexual division of Power as disparities in power and control within relationships, institutions, and society, often favoring men and contributing to the prevalence of GBV, cathexis as social and cultural norms regarding emotional and sexual relationships that perpetuate gender inequality<sup>60</sup>.

### **1.2.12. Intersectionality theory, multiple and intersecting identities**

The intersectionality, the theory of highlights how different aspects of a person's identity (e.g., gender, race, class, ethnicity, age, disability) intersect to create unique experiences of oppression and privilege, the complex Vulnerabilities as women and girls who belong to multiple marginalized groups face compounded vulnerabilities and heightened risks of GBV<sup>61</sup>.

### **1.2.13. Conflict theory, power and resources**

The resource Control, is conflict theory suggests that GBV arises from struggles over power and resources, those who control resources often exert power over others, leading to conflict and violence, social inequality, inequalities in access to resources, opportunities, and rights can fuel tensions and contribute to the occurrence of GBV<sup>62</sup>. Applying these theoretical frameworks provides a comprehensive understanding of gender-based violence in Rwanda, each theory offers unique insights into the causes, dynamics, and potential solutions for GBV, by integrating these perspectives, policymakers, practitioners, and researchers can develop more effective strategies to combat GBV, promote gender equality, and support victims and addressing GBV requires multifaceted approach that includes legal reforms, educational initiatives, community involvement, and support services tailored to the needs of diverse populations<sup>63</sup>.

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<sup>60</sup> Bryman, A., (2012) "Social Research Methods", Second edition. New York: Oxford University Press, p.34-87

<sup>61</sup> Buscher, D. (2014) "Preventing gender-based violence: getting it right" Humanitarian Exchange Magazine, No 60, February 2014. Available at: [http://odihpn.org/magazine/Gender based-violence-in-emergencies/](http://odihpn.org/magazine/Gender-based-violence-in-emergencies/) Accessed: 28 May 2024.

<sup>62</sup> Casey, E., Carlson, J., Two Bulls, S., and Yager, A., (2016) Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model. *Trauma, Violence & Abuse* No 5 2016, pp 1-16

<sup>63</sup> Ellsberg, M. Arango, D.J., Morton, M., Gennari, F., Kiplesund, S., Contreras, M., and Watts, C., (2015) "Prevention of violence against women and girls" *Lancet*, 2015, 385, pp. 1555-1566.

## **CHAPTER II: THE GAPS IN THE LAW N°59/2008 OF 10/09/2008 ON PREVENTION AND PUNISHMENT OF GENDER- BASED VIOLENCE.**

This chapter aims at demonstrating the gaps marked in the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence, and shows challenges that judicial officers met while implementing this law vs the law n° 68/2018 of 30/08/2018 determining offences and penalties in general.

### **2.1.Lack of specificity and clarity and Narrow definitions**

Article 16: Protection from discrimination (1) All Rwandans are born and remain equal in rights and freedoms. (2) Any form of or propaganda for discrimination, including on the basis of ethnicity, family or descent, clan, skin color, sex, region, social status, religion or belief, opinion, wealth, cultural differences, language, economic status, physical or mental disability or any other form of discrimination are prohibited and punishable by law.

Article 9 of Law N° 66/2018 of 30/08/2018 governing labor in Rwanda prohibits discrimination at the workplace. Sex, is among the prohibited grounds of discrimination. 15. Further, the crime of discrimination is punishable under article 163 of the law 2018 law on offences and penalties in general, coming to article 5 up to 19 of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence which provide punishment for “conjugal rape” (imprisonment of six months to two years), and the punishment is lower than that of rape; the law

is under revision and the punishment shall be harmonized with article 134 of the law N° 68/2018 of 30/08/2018 determining offences and penalties in general.

The law provides definitions of GBV, but these may be too narrow and not encompass all forms of violence that occur, especially psychological and economic violence, some terms and provisions lack specificity and clarity, leading to varied interpretations and inconsistent application.

Article 39 of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence, stipulates about the legalizing unlawful marriages and common assets distribution where it focused on people entertaining unlawful marriages shall be married in accordance with the monogamous principle.

If a person concerned with the provision of previous paragraph of this article was living with many husbands/wives, he shall first of all share the commonly owned belongings with those husbands/wives equally. The property distribution referred to in paragraph 2 of this article shall not entrench on the children's legally recognized rights,

As gaps in this law, specifically in article 39 is that it does not specify what will happen to the potential heirs of the people entertaining unlawful marriages shall be married in accordance with the monogamous principle only on the sharing of the properties of the commonly owned belongings with those husbands/wives equally, and it stops here without specifying what will happen if one of the spouse is died or both are died without leaving behind the children, on the properties left behind of these spouses entertaining unlawful marriages and common assets.

Modalities of such distribution shall be determined by an Order of the Minister in charge of Local Government, other gaps are in this law is the since 2008 is that it stipulated that there was ministerial order that supposed to specify modalities of distribution of properties and asserts owned by people entertaining unlawful marriages<sup>64</sup>.

## **2.2. Protection for Vulnerable Groups**

Limited Coverage, this law does not adequately address the unique needs and protections required for vulnerable groups, such as individuals or persons with disabilities, and elderly women, the children as Victims since the law acknowledges children as potential victims, it does not provide specific measures tailored to their protection and support, Article 4 the law n°59/2008 of

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<sup>64</sup> Article 39 of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence

10/09/2008 on prevention and punishment of gender- based violence, stipulates on distorting tranquility of one's spouse It is forbidden to distort tranquility of one's spouse due to polygamy, concubinage or adultery. It is forbidden to distort tranquility of one's spouse because of dowry, reproduction and his/her natural physiognomy. It is forbidden to harass to deprive one's spouse of the right to property and to employment, as gap this issue is currently difficult to be evidenced since it is producing at home, and since culture behavior in society is a barrier since women, men, boys and girls cannot speak out what happen on them, while their survivors or victims of gender-based violence due to keeping family secrecy the keep continuing of being gender-based violence victims. Therefore, the law should try its best to show many angles in which this kind of gender-based violence which specifically happens at home should be evidenced without stigmatizing the victims such as men, women, boys and girls facing this issue at home<sup>65</sup>.

Article 5: Conjugal rape Both spouses have equal rights as to sexual intercourse, reproductive health and family planning. It is forbidden to make sex with one's spouse without one's consent.

Article 6: Violence as the cause of divorce Gender based violence shall be one of the causes of divorce. At the time divorce is being decided, the rights of children from the spouses shall be taken into account in accordance with the law.

Article 7: Protecting a child against gender-based violence, the parent, trustee or any other person responsible for a child shall protect the latter against any gender-based violence. It shall be forbidden not to cater for child under one's trusteeship just because of whether the child is male or female.

Also there is law n°71/2018 of 31/08/2018 relating to the protection of the child, this means that the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence should be amended because so articles are inserted in other special laws or general law to avoid duplication of articles in many laws that is meaningless in Rwandan legal frame work<sup>66</sup>.

### **2.3. Implementation and Enforcement of law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence**

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<sup>65</sup> Article 4 the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence

<sup>66</sup> Article 32 of the law n°71/2018 of 31/08/2018 relating to the protection of the child, Neglecting parental or guardian obligations without cause



Resource Allocation, this law has insufficient allocation of resources for the implementation and enforcement of the law, where this includes inadequate funding for support services like shelters, counseling, and legal aid, training and Capacity Building of the law enforcement officers, judicial staff, and service providers often lack the necessary training and sensitivity to handle GBV cases effectively<sup>67</sup>.

Rwanda has made significant strides in addressing gender-based violence (GBV) through its legislative framework, notably Law N°59/2008 of 10/09/2008 on Prevention and Punishment of Gender-Based Violence, however, the implementation and enforcement of these laws face several challenges, the aspects and provides insights into improving the effectiveness of GBV laws in Rwanda.

It set the relevant institutions for the purposes of implementation of GBV laws involves multiple institutions, including the Ministry of Gender and Family Promotion (MIGEPROF), the Rwanda National Police, the judiciary, and various non-governmental organizations (NGOs as well as effective coordination among these institutions is crucial for comprehensive GBV response<sup>68</sup>.

According to Abraham Lincoln, the effective implementation and enforcement are essential to achieve the objectives of any legislation, therefore law without enforcement is just good advice', for the GBV law to achieve its objectives, it must be implemented and enforced within the whole country whether Directives and Regulations are properly implemented and enforced<sup>69</sup>.

To assess implementation and enforcement, institutions in charge of GBV must train its officers and examine a wide range of activities including transposition, compliance promotion, monitoring and enforcement, understand that effective implementation and enforcement of GBV laws involves a wide range of players and activities within the Rwandan Territory, legislation through infringement proceedings, identifying failures to transpose, implement or enforce the GBV law within the Rwandan Society but also analyzed the benefits of enforcement actions by some institutions such Ministry of Gender and Family promotion, Gender Monitoring Officer and Non-Government Organization NGO's achieved many in eradicating Gender based violence in Rwanda<sup>70</sup>.

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<sup>67</sup> Childs, S. & Krook, M.L. (2008). Critical mass theory and women's political

<sup>68</sup> Longman, T. (2005). Rwanda's paradox: Gender equality or emerging authoritarianism, in G. Bauer & H.E. Britton (Eds.), *Women in African Parliaments*. Boulder, CO: Lynne Rienner Publishers.

<sup>69</sup> Newbury, C. & Baldwin, H. (2001a). Profile: Rwanda. In K. Kumar (Ed.), *Women and Civil War* (pp. 27- 38). Boulder, CO: Lynne Rienner Publishers.

<sup>70</sup> Nowrojee, B. & Ralph R. (2000). *Justice for women victims of violence: Rwanda after the 1994 Genocide*.

## 2.4. Legal and Judicial Processes

Delays and Inefficiencies, the judicial process for GBV cases can be slow and cumbersome, leading to delays in justice for victims, the evidence Requirements, such high burdens of proof and stringent evidence requirements can hinder the successful prosecution of GBV cases, discouraging victims from coming forward<sup>71</sup>.

The legislation alone will not eradicate GBV, comprehensive legal frameworks that protect women and girls from all forms of GBV constitute a vital step to putting an end to impunity and societal acceptance of GBV. The legislation not only sends a strong signal that GBV is a serious crime but also contributes to changing social norms so that victims or survivors enjoy effective protection of their human rights. The OECD's Social Institutions and Gender index assesses how comprehensively a country's legal framework protects girls and women from GBV<sup>72</sup>. In the best case, the law protects women and girls from all the following forms of violence, honor crimes; intimate partner violence; rape, including marital rape; and sexual harassment without any exceptions or legal loopholes. For instance, this requires that laws on domestic violence define and criminalize all types of abuse (physical, sexual, psychological and economic violence) and that laws on sexual harassment apply in all places (including not only the workplace, but also educational establishments, online settings and the public place)<sup>73</sup>.

## 2.5. Support Services for Victims

Inadequate Support Structures, there is a lack of comprehensive support structures for GBV victims, including medical, psychological, and legal assistance, reintegration and Rehabilitation, as limited focus on the reintegration and rehabilitation of GBV victims into society, which is crucial for their long-term well-being<sup>74</sup>.

Strengthen systems of legal aid and public defense that are accessible, sustainable, and responsive to the needs of women and ensure that such services are provided in a timely, continuous and effective manner at all stages of the judicial or quasi-judicial proceedings.

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<sup>71</sup> Curtin, J. (2008). Women, political leadership and substantive representation: The case of New Zealand. *Parliamentary Affairs* 61(3): 490-504.

<sup>72</sup> Ibid

<sup>73</sup> Pitkin, H. F. (1967). *The Concept of Representation*. Berkeley, CA: University of California Press.

<sup>74</sup> Ibid

In order to ensure access justice, each district has 3 personnel responsible to facilitate access to justice services through the mechanism called ‘Access to Justice Bureau (MAJ)’. MAJ provides legal aid services and disseminate laws to the population. Among the 3 personnel, one is in charge of GBV and child abuse which facilitates easy access to justice for victims. 28. During the fiscal year 2017/2018, 2018/2019 and 2019/2020 at least 31,221 women received free legal aid services through MAJ, Ministry of Justice headquarters and Rwanda Bar Association through the legal aid agreement the latter has with the Ministry of Justice. Non state actors also greatly contribute in legal aid services provisions where women are also given due consideration, in addition, Non-State Legal Aid Providers also provide legal aid services to vulnerable people, as well as the Legal Aid Forum (LAF)<sup>3</sup> as of 2018/2020 provided the following services where a number of 1,958 persons were represented by lawyers before the courts both in criminal and civil matters in the case related to gender-based violence since 2020 to 2023. In Civil matters among the 651 persons represented, women constitute 68%, while in criminal matters, among 1,307 people represented, women constitute 13%. With regard to legal assistance, 100,125 persons were assisted through legal advice received on their legal issues, a big number of the persons assisted were women because in addition to their legal cases, women stand for the rights of their children, the legal assistance is provided both physical and through ICT platform, where people are assisted by call center lawyers via mobile phones for free and without traveling from their homes. Message on labor law is also accessible through legal helpline (845) for free of charge. As result, 34,1534 people listened to messages related to labor law through interactive voice response and 8,762 people read the messages through Unstructured Supplementary Service Data<sup>75</sup>. This marks a big gap in the gender-based violence in because their small public awareness on gender-based violence especially what happens in men, because men are either shame to announce or speak out the violence that happens to them due to social culture behaviors and traditions.

## **2.6. Public Awareness and Prevention**

Education and Awareness, insufficient emphasis on public education and awareness campaigns to change societal attitudes towards GBV and promote gender equality in secondary and university schools as general course to educate youths about the causes and consequences of gender-based

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<sup>75</sup> Weitsman, P. (2008). The Politics of identity and sexual violence: A Review of Bosnia and Rwanda. *Human Rights Quarterly* 30: 561-578.

violence on individual lives, the community involvement, as Limited mechanisms for community involvement and grassroots participation in GBV prevention and response<sup>76</sup>.

Awareness raising activities are widely used and have an important role to play in preventing violence against women and girls, however, there is little evidence that awareness raising activities on their own are able to significantly reduce, there is often a mismatch between the intended aims of awareness raising activities and what they are likely to achieve, for instance, an organization might publicize information about a new law with the objective of reducing violence perpetrated by men, but this strategy alone is highly unlikely to do so.

It is important to clarify what awareness raising activities can achieve as well as how to mitigate the limits of this approach, this can inform decision-making around implementing awareness raising approaches, it can help to design theories of change more closely aligned with intervention activities, and identify best practices for more effective awareness raising efforts.

## **2.7.Awareness raising to prevent violence**

Awareness raising to prevent violence as campaigns and events to advocate for prevention, such as the annual 16 days of activism against gender-based violence (GBV) often are supported by awareness raising activities. They can be targeted to diverse audiences, including the general public, intervention communities, national and local government and service providers. They can be intended for individual or communal engagement. Such activities range in design from one-off messaging to long-term programs, such as television or radio-based shows, or as part of an ongoing activism campaign. Many awareness raising approaches are designed to shift attitudes of GBV, as well as gender norms, which define acceptable and appropriate actions for women and men in a given group or society. The conviction that it is morally unacceptable to beat one's wife, for example, is distinct from the expectation that the survivor will not report violence to authorities<sup>77</sup>.

They can generate knowledge of relevant issues and reach many people at a relatively low cost. By providing information to challenge gender norms or by attaching stigma to unwanted behaviors, they can support positive norms and prompt reflection on harmful norms, for example, programs to discourage alcohol abuse, a risk factor for GBV might use messages such as men in

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<sup>76</sup> Franceschet, S. & Piscopo, J. (2008). Gender quotas and women's substantive representation: Lessons from Argentina. *Politics and Gender* 4(3): 393-425.

<sup>77</sup> Mannell, "The implications," (2018); Sinha, "Structural Violence on Women," 134.; Farmer, (2006).

this community don't support drinking to get drunk" or feature a prominent man from the community who supports this message<sup>78</sup>.

Some limitations of awareness raising activities, despite the importance of awareness raising activities, there is very limited evidence of their impact on preventing GBV on their own, the emerging evidence on intervention design and implementation to reduce on GBV demonstrates the importance of participatory group sessions, critical reflection to address power and gender inequality, experiential learning, relationship skills building and efforts to support empowerment, awareness raising activities particularly didactic, short-term, or one-way interventions, seldom incorporate those features, GBV is not only driven by attitudes, beliefs and norms, but by a variety of other triggers lack of relationship skills, poor mental health, alcohol abuse, which is why awareness raising approaches on their own are often insufficient to reduce violence<sup>79</sup>.

## **2.8. Coordination and Monitoring**

Interagency Coordination, poor coordination among various government agencies and between government and non-governmental organizations (NGOs) involved in GBV prevention and response, monitoring and Evaluation and lack of robust monitoring and evaluation frameworks to assess the effectiveness of the law and its implementation, this includes the absence of data collection and analysis mechanisms to inform policy and practice<sup>80</sup>.

Response monitoring and evaluation showed that GBV sub-cluster may evaluate its strategic work in humanitarian response in other ways, to look at broader aspects of the response that are not constrained by the HRP annual timeline, indicators and limited set of partners. Such an exercise does not have to be elaborate: it can be as simple as reviewing the work plan table or GBV Sub-Cluster Strategy and its indicators together on a quarterly basis in a coordination meeting and the followed up with a one-page report and recommendations that partners review and endorse when it is finalized, the option is a more robust process led by the Strategic Advisory Group (SAG) for the GBV sub-cluster on an annual or mid-term basis, with the GBV Coordination Team (GBV

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<sup>78</sup> Abrahams, N., Jewkes, R. "Barriers to post exposure prophylaxis (PEP) completion after rape: a South African qualitative study,." *Culture, Health & Sexuality*, 12, no. 5 (2010): p.471-484

<sup>79</sup> Akinlusi, F.M., Rabiou, K.A., Olawepo, T.A. "Sexual assault in Lagos, Nigeria: a five year retrospective review." *BMC Women's Health* 14, no. 115 (2014).

<sup>80</sup> Handrahan, L. (2004). *Conflict, Gender, Ethnicity and Post-Conflict Reconstruction*, *Security Dialogue* 35(4): 429-445.

coordinator, IMO, etc.) or lead agency supporting as secretariat, and the process may be self-initiated by the GBV sub-cluster vice versa<sup>81</sup>.

Cluster Coordination Performance Monitoring Specific monitoring and evaluation mechanisms are used for assessing the coordination aspects of a humanitarian response (as opposed to the overall services delivered as part of the humanitarian response) where monitoring and evaluation of the GBV sub-cluster's performance may be done through Cluster Coordination Performance Monitoring (CCPM), which is a self-assessment. Humanitarian leadership initiates this process, in the CCPM, the cluster evaluates itself on the six core cluster functions discussed in this chapter (see the checklist at the beginning of Part Two) and the additional criteria of "accountability to affected people"<sup>82</sup>.

This exercise may occur simultaneously across all the clusters, or can be initiated by demand for a specific cluster. The process is constructive, leading to identification of a cluster's strengths, weaknesses and areas for improvement. It is led at the country level but can be supported by global clusters, where all members of the coordination group have an opportunity to answer a survey on how they participate in the execution of the six core functions and how they utilize the outcomes of the work (the related deliverables for each function), and the CCPM may become part of a larger review of the humanitarian architecture to determine if it is appropriate for its context, and if the current configuration of clusters is required and reviews are related to changes in the humanitarian context and can assist in cluster transitioning or de-activation decision on gender based violence in whole instead of focusing only on girls and women partially<sup>83</sup>.

## **2.9. Legal Remedies and Compensation**

Access to Legal Remedies, barriers to accessing legal remedies for GBV victims, including financial, geographical, and social obstacles, compensation and Restitution as the law does not provide clear guidelines on compensation and restitution for GBV victims, which is essential for their recovery and empowerment, hence addressing these gaps requires a multifaceted approach, involving legislative amendments, improved resource allocation, capacity building, and enhanced

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<sup>81</sup> <http://www.economist.com/world/international/displaystory.cfm>

<sup>82</sup> Wallace, C., Haerper, C. & Abbott, P. (2009). Women in Rwandan politics and society. *International Journal of Sociology* 38(4), p.111-125.

<sup>83</sup> Stevens, A. (2009). Representative bureaucracy – what, why and how: Evidence from the European Commission. *Public Policy and Administration* 24(2), p.119-139.

public awareness campaigns. As well as effective coordination among stakeholders and robust monitoring and evaluation mechanisms are also crucial to ensure that the law achieves its intended objectives of preventing and punishing GBV in Rwanda, therefore by addressing these gaps, Rwanda can strengthen its legal framework and provide better protection and support for victims of gender-based violence<sup>84</sup>.

A legal remedy, also referred to as judicial relief or a judicial remedy, is the means with which a court of law, usually in the exercise of civil law jurisdiction, enforces a right, imposes a penalty, or makes another court order to impose its will in order to compensate for the harm of a wrongful act inflicted upon the acts of gender-based violence.

## **2.10. Case laws**

1. MUSHINZIMANA v. RUTARINDWA [Rwanda SUPREME COURT RCA A 0026/12/CS (Kayitesi R.. P.J. Rugabirwa and Mukandamage, J.) 21 February 2014] Rutarindwa sued Mushinzimana at Intermediate Court of Nyarugenge requesting that the sale contract of the house concluded between Mushinzimana and the wife of Rutarindwa should be cancelled because it was unlawfully concluded since she sold it without his consent. The Court held that his claim has no merit because he did not demonstrate to the Court the kind of the matrimonial regime he had with his wife, so that the Court determines whether he has a right on the sold house, and it ordered Rutarindwa to pay to Mushinzimana the counsel and procedural fees Rutarindwa appealed against that decision at the High Court which held that the sale contract is terminated because there is no evidence which demonstrates to the Court that Rutarindwa consented to that sale because his wife fled to Malawi just after she sold the house, and that it cannot examine the requests of Mbarushimana who prays to be reimbursed the price of the house, because it was not the subject of the claim in the first instance. It ordered him to pay the counsel fees to Rutarindwa.

Mushinzimana appealed to the Supreme Court then his appeal was screened and the judge declares that the appeal falls within its jurisdiction. Rutarindwa raised the objection of lack of jurisdiction. requesting to reject the appeal of Mushinzimana because the value of the subject matter does not reach 20.000.000Frw amount as it was provided for by the law determining the organisation. functioning and jurisdiction of the Supreme Court that was into force at the time

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<sup>84</sup> Hunt, S. & Posa, C. (2001). Women waging peace. Foreign Policy. 124: 38-47

Mushinzimana appealed because the sale contract which was submitted at the time of the claim has the value of 4.500.000Frw. whereas Mushinzimana states that his appeal falls within the jurisdiction of the Supreme Court since the value of the subject matter amounts to 34.178.815Frw as it is demonstrated by the submitted certificate of registration of mortgage.

## II. THE DECISION OF THE COURT

[18] Decides that the objection for lack of jurisdiction of the Supreme Court raised by Rutarindwa Isaïe has merit;

[19] Decides that the appeal of Mushinzimana Emmanuel against the judgment RCA 0090/08/HC/KIG rendered by the High Court on 27 January 2012 does not fall within the Jurisdiction of the Supreme Court; Decides that the screening decision is overturned;

[21] Orders Mushinzimana Emmanuel to pay the Court fees amounting to 44.600Frw. in addition to what he had been charged in the High Court, failure to pay within eight days, that amount shall be deducted from his assets through government coercion

2. PROSECUTION v. GASORE [Rwanda SUPREME COURT RS/REV/PEN 0004/10/CS (Nyirinkwaya. P.J.. Munyangeri and Rugabirwa, J.) 7 February \_2014]

The High Court, Musanze Chamber convicted Gasore Kagiraneza Emmanuel and Nzabandeba Théophile of rape committed against Nyirabikari Agnes after what they murdered her and sentenced them to life imprisonment each. Dissatisfied by the decision of the Court. they appealed to the Supreme Court which confirmed the ruling of the previous Court. Moreover, the appellants seized the Supreme Court applying for case review. The case screening Judge took a decision stating that they are not entitled to apply for review since the grounds on which they were basing their application were not consistent with those provided for by the law. Gasore Kagiraneza Emmanuel appealed against that order and presented witnesses whom the Court did not summon for interrogation.

The Prosecution responded that the case screening order must be upheld since there is no ground that Gasore Kagiraneza Emmanuel provides as to why the judgment against him would be subjected to review.

[1] The High Court of the Republic. Musanze Chamber convicted Gasore Emmanuel and Nzabandeba Théophile of the crime of rape and murder committed against Nyirabikari Angès and sentenced them to life imprisonment each.



[2] Gasore and Nzabandeba appealed to the Supreme Court which. in the ruling RPA 0098/07/CS on November 11. 2008. upheld the appealed case.

[3] Gasore and Nzabandeba applied for review and the screening judge. in the order n° RP 0145/09/Pré-ex/CS of May 22. 2009. ruled that they are not allowed to apply for judicial review since the grounds they advance are not in conformity with those provided for by article 180 of Law n° 13/2004 of 17/05/2004 relating to the code of criminal procedure applicable at the time.

[4] Gasore was notified of that ruling and appealed against it alleging that the new evidence he bases on to apply for the review of Judgment RPA 0098/07/CS are five exculpatory witnesses he provided to the Court; but the Supreme Court declined to summon and hear them.

[5] The case was heard in public on January 6. 2014 Gasore Kagiraneza Emmanuel assisted by Counsel Rutagengwa Mukiga while the Prosecution was represented by Alphonse Mutayoba.

## II. ANALYSIS OF THE LEGAL ISSUE

Whether there is new evidence that Gasore provided which can entail the review of the final judgment against him.

[6] Gasore Kagiraneza Emmanuel and his defence counsel states that the case screening Judge ruled that he could not apply for review of the case decided by the Supreme Court as he advanced no ground matching those stipulated by article 180 of Law n° 13/2004 of 17/05/2004 relating to the code of criminal procedure which was into force at the time when he filed the appeal disregarding that he requested the Supreme Court to summon Ntamubana, Bujimiri. Hirimiza. Derena and Rusigariye as exculpatory witnesses since they were to clarify that he took no part in the commission of the offence he was charged with because they spent the day together working; but the Court convicted him without summoning them and they request their summon to hear their statements.

[7] The representative of the Prosecution disputes that the above-mentioned case screening order should not be quashed because Gasore Kagiraneza Emmanuel produced no new evidence to be relied on to review the judgment against him.

[8] With regard to grounds for admission of the application for review. article 180 of Law n° 13/2004 of 17/05/2004 relating to the code of criminal procedure which was into force when the appeal was launched. provides that review of the judgment finally decided is received when :  
“After a person convicted of homicide, there is later discovered enough evidence indicating that the person alleged to have been killed is actually not; After a person convicted of an offence there

is discovered another similar judgment which punished a different person for the same offence and the contradiction in the two cases show that once of the convicted persons was innocent; One of the witnesses to a case is subsequently found to have given false testimony against the accused person and the former has already been convicted for the offence.

The person convicted of perjury cannot be called as a witness in the new case; After judgment. There person was innocent. IS discovered evidence. indicating that the convicted new

[9] With regard to grounds that Gasore bases his application for review related to the fact that the Supreme Court disregarded to summon witnesses who would have exculpated him. namely Ntamubana. Bujimiri. Hirimiza. Derena and Rusigariye, the Court finds that it is not a new evidence which may entail the review of judgment RPA 0098/07/CS since it does not match with those provided by article 180 of Law n° 13/2004 above mentioned as it has been ruled by the case screening judge. It is very clear rather that the ground concerns the hearing of the case on merits; therefore. the screening of judgment n° RP 0145/09/Pré-ex/CS of the judgment n° RS/REV/PEN 0079/08/CS delivered on May 22. 2009 is maintained.

## II. THE DECISION OF THE COURT

[10] Receive the appeal filed by G the case n° RP 0145/09/Pré-ex/CS conformity with the law: Gsore Kagiraneza Emmanuel regarding the screening of delivered on May 22. 2009 since it has been filed in Rules that the appeal has no merit;

[12]Orders the court fees to be charged to Public treasury.

3.THE PROSECUTION v NARAMABUYE [Rwanda SUPREME COURT RPA 0071/10/CS (Mutashya. P.J. Hitiyaremye and Kanyange. J.) 10 January, 2014] The appellant was charged with an attempt to murder committed when he disputed his wife. strangled her and caused wounds on her neck. The High Court. Chamber of Rusizi sentenced him to 20 years of imprisonment and he lost his civil rights. The court motivated that he was given the penalty reduction. as nothing proves that he had intentions to kill and that he pleaded guilty without any reservations. He appealed to the Supreme Court. arguing that the classification of the offence to which he was convicted by the High Court did not match to the acts committed. He states that he should have been condemned to the assault and battery and granted the penalty reduction as he pleaded guilty and sought forgiveness BRIEF BACKGROUND OF THE CASE

[1] In the night of 4 Decembre 2008. Naramabuye quarrelled with his wife Ushizimpumu, he strangled her and caused wounds around her neck. the latter filed a claim with the police Judiciary

stating that he intended to kill her. When the investigations were over, the prosecution filed a case in the High Court chamber of Rusizi prosecuting him for attempt to murder. Naramabuye defended himself saying that he never intended to kill his wife. but they only fought and stopped it themselves, and that if he wanted to kill her he would have done so because they passed all night together.

[2] The Court passed the verdict. ruled that Naramabuye was guilty of the crime he was accused of and sentenced him to 20 years of imprisonment and lost all his civic rights. The Court took the decision based on the fact that Naramabuye strangled his wife until he caused wounds on her neck and the reason against her death was not his cause. The Court also finds nothing to prove his intention to kill her. being at home alone. he would have achieved it. He strangled her resulting from the fights between them caused by the disagreement caused by the concubine Naramabuye had. The Court also considered Naramabuye's guilty plea and based on that. to award him the penalty reduction.

[3] Naramabuye appealed to the Supreme Court claiming that the classification of the offence he was convicted by the High Court was not matching the acts committed. he states that he should be punished of the assault and battery and be given the penalty reduction as he pleads guilty and seeks forgiveness.

[4] The hearing was held in public on 09/12/2013. Naramabuye was present assisted by Counsel Sibomwa Gahizi, and the Prosecution was represented by Ntawangundi Béatrice.

#### ANALYSIS OF THE LEGAL ISSUES IN THE CASE.

Whether it was an error in classification of the offence convicted to Naramabuye and if he should be granted the penalty reduction.

[5] Naramabuye argues that the classification of the offence to which he is convicted does not match to its execution because the prosecution has not demonstrated the intent and the acts, he made constituting the crime of attempt to murder. He added that they did not even demonstrate any circumstance beyond his control or any person who stopped or interrupted him. He further explained that before his arrest. he spent two days together after the fight. therefore, he argues that the offence was considered as attempt to murder in order to make the offence more serious.

[6] He keeps stating that the offence he committed is assault and battery with no intention to kill and that is what he pleaded guilty of and sought forgiveness, pleading to court not to convict him on attempt to murder but allow him to benefit the penalty reduction pursuant to art. 35 of the Law

on criminal procedure and art. 82 and 83 of the penal code that was in force at the time when the offence was committed.

[7] Counsel Sibo Gahizi also argues that Naramabuye fought with his wife and themselves stopped the fighting's. On the following day, his wife went to file a case stating that Naramabuye had intention to kill her and the Court confirmed it without any observable and unequivocal acts committed constituting the intention to murder. He states also that nothing was demonstrated as circumstance beyond his control that served to suspend, fail or prevent the offence from happening so that the attempt to murder can be proven. He added that in case he would have intended to kill her wife nothing could have stoped him as because he is stronger than her. He says that having wounds is not enough to prove that he was intending to kill her.

[8] The Prosecutor also argues that by analyzing the contents of article 21 of the penal code that was in force at the time, there was no attempt to murder even if Naramabuye fought with her wife, they stopped it themselves .and that the offence committed was provided for by art. 318 of the above-mentioned code because Ushizimpumu does not prove what stopped his husband to kill her. if he had the intention, he would have accomplished it.

[9] He continues to argue that to charge him the attempt to murder was based on the testimonies from the witnesses who stated that they saw Ushizimpumu with wounds around the neck. Moreover, the fact that Naramabuye pleaded guilty, justifies that he pleaded guilty for fighting with his wife and causing her woods and that even the Court found that there was no intent to kill his wife, therefore, it should have not convicted him to attempt to murder on ground that he pleaded guilty. In Concluding, he requested the Court to reclassify the offence to which Naramabuye was convicted, and confirm that he is guilty of petty assault and battery as there was no medical report proving the rate of her injury, and sentence him to one year of imprisonment.

#### THE VIEW OF THE COURT

[10] The appealed judgment shows that in convicting Naramabuye to attempt to murder the High Court was based on the fact that he strangled his wife until he cause the wounds around her neck and on the fact that he pleaded guilty in unequivocal way and the motivation given by the Court where it explained that he had no intent to kill his wife, but regardless of that, it convicted him to the attempt to murder.

[11] Regarding the attempt. article 21 of the penal code that was in force at the time when the crime was committed stipulates that, 'An attempt is punishable when the plan to commit an offence has been demonstrated by observable and unequivocal acts constituting the beginning of the offence meant to enable the commission and that were suspended or failed in their purpose only because of circumstances beyond the offender's control'.

[12] Even if Naramabuye pleaded guilty since his arrest, admitting that he fought with his wife and strangled her. the Court finds it not enough to say that the act itself is considered as an offence demonstration as provided for by the above mentioned article. basing on the fact that they fought and he strangled her does not prove that it was intended to kill her. especially that no other thing was used to prove that the fight was strange On this issue, the law scholars refer to decided cases where Court have confirmed that it should be considered as the beginning of the offence. when there is an act committed meant to enable the commission of the offence itself. and when there is an intent to commit an offence; that those courts confirm that the beginning occurs when the person is in action and the acts he/she committed can lead one to believe that he

should achieve his intent. ( Dans de numbness affaires, la Cour de Cassation a affirm que 'constitute un commencement d'exécution tout acte qui tend directement au délit, lorsqu'il a été accompli avec intention de le commettre Ainsi, elle admet qu'il y a commencemen d'exécution, dans l'hypothèse où l'auteur est déjà en action du crime tenté et les faits d'ores et déjà accomplis permettent de penser que l'agent serait allé jusqu'au bout de son entreprise criminelle

[13] In addition, art.21 mentioned above stipulates that the attempt is punishable when the acts constituting the beginning of the offence meant to enable the commission were suspended or failed in their purpose only because of circumstances beyond the offender's control. With regards to Naramabuye, nothing was demonstrated as the one used to stop him to achieve his plot. any person or other circumstances beyond his control that may have stopped him to achieve it. especially that nothing proved that after the fighting his wife took refuge to another place. but Naramabuye confirms that they stayed together in the house. which explains that in case he had intention to kill her. he would have accomplished it.

[14] As explained by the High Court. there is no act proving that Naramabuye intended to kill his wife. what is clear therefore is that he fought with his wife because of their habitual conflicts which resulted in the fight and she was injured as the latter state it. and as it is testified and confirmed by the witness named Mategeko who said that he saw her with wounds around the neck.

[15] The court finds that the offence committed by Naramabuye is assault and battery as prescribed by art. 318 of the penal code that was in force at the time when the crime was committed. where it stipulates that Any person who intentionally causes injuries to another, or beats or commits any serious acts of violence against another person shall be liable to a term oo Bernard Bouloc, Haritini Matsopoulou, Droit pénal général et procédure pénale, 16e édition, 2006, p.77.

imprisonment of one (1) month to one (1) year and a fine of five hundred (500) to two thousand Rwandan francs (2000,000) or one of these penalties.[16]Regarding the penalty reduction claimed by Naramabuye basing to his guilty plea. the Court finds that it is no longer necessary because he has served and completed his sentence.

#### THE DECISION OF THE COURT

Finds that the appeal of Naramabuye Etienne has merit in part.

[17][18]Finds him guilty of the assault and battery.

[19]Sentences him(2000Frw)ofimprisonmentfine of two thousand francs(1)andtooneycara

[20]The court decides that the appealed judgment is overtuned withclassification of the offence and the penalty that was infliged to Naramabuye.reguards to the

[21]The court decides that the court fees be paid by the public treasury

#### **2.11. Issues in Succession on Spouses Unlawfully Married**

Article 2 of the law n°27/2016 of 08/07/2016 governing matrimonial regimes, donations and successions, on the definition of terms In this Law, the following terms are defined as follows, stipulate that the rightful heirs is the surviving spouse and legitimate children; therefore the Succession, or the distribution of a deceased person's estate, can be complex when it involves spouses in an unlawful marriage, an unlawful marriage, also known as a void or voidable marriage, is one that is not legally recognized due to factors such as bigamy, lack of consent, underage participants, or violation of other statutory requirements, the following are key issues that may arise in succession cases involving unlawfully married spouses, that the why the law preventing and punishing gender based violence should be clear define and specify how things should be organized after that the person entertaining unlawful marriage died without lefting behind the children.

Article 73: Order of regular heirs Heirs are entitled to inherit in the following order:

1° children of the de cujus;

- 2° father and mother of the de cuius;
- 3° full-blood brothers and sisters of the de cuius;
- 4° half-brothers and half-sisters of the de cuius;
- 5° grandparents of the de cuius;
- 6° paternal and maternal uncles and aunts of the de cuius.

Subject to provisions of Article 41 of this Law, each category of successors excludes others in the order of succession. Full-blood children of the de cuius inherit from both the paternal and maternal sides, while consanguineous and uterine children inherit only from the side of the parent to whom they are related, this means that this law prevent the succession between person entertaining unlawful marriage, because there is no law regulating this issue, rather law on gender-based violence should regulate it.

Even though the law on gender-based violence does not recognize the cohabitation of person entertaining unlawful marriage but it should recognize the inheritance Rights of heirs because these people owned the assets and properties that they acquired during their cohabitation.

Lack of Entitlement, in many jurisdictions, a spouse in an unlawful marriage may not have the same inheritance rights as a legally married spouse. This could result in the surviving spouse being excluded from inheriting the deceased's estate, also challenges from Heirs, lawful heirs (such as children from a previous marriage, siblings, or parents) may challenge the surviving spouse's claim to the estate, arguing that the marriage was unlawful and therefore invalid to intimidate heirs from succession<sup>85</sup>.

### **CHAPTER III: MECHANISMS TO BE ADOPTED FOR EFFECTIVE PREVENTION AND PUNISHMENT OF GENDER BASED VIOLENCE**

This chapter demonstrates the legal and institutional mechanisms that can be adopted for effective prevention and punishment of gender-based violence and provide the conclusions and recommendations for the whole dissertation.

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<sup>85</sup> Article 2 of the law n°27/2016 of 08/07/2016 governing matrimonial regimes, donations and successions

### **3.1. Legal Mechanisms to be undertaken to effectively eliminate all forms gender based violence**

To effectively eliminate all forms of gender-based violence (GBV), it is essential to adopt a comprehensive legal framework that addresses prevention, protection, prosecution, and partnership with key stakeholders.

#### **3.1.1. Comprehensive Legislative Framework**

Specifically make an amendment on the article 39 of the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence targeting various forms of GBV, stated that legalizing unlawful marriages and common assets distribution Those people entertaining unlawful marriages shall be married in accordance with the monogamous principle. If a person concerned with the provision of previous paragraph of this Article was living with many husbands/wives, he shall first of all share the commonly owned belongings with those husbands/wives equally. The property distribution referred to in paragraph 2 of this Article shall not trench on the children's legally recognized rights, hence it stipulated that the modalities of such distribution shall be determined by an order of the minister in charge of Local Government since 2008 till now. Such as domestic violence, sexual harassment, trafficking, and female genital mutilation (FGM), these laws should clearly define offenses, outline penalties, and establish procedures for prosecution and victim support, harmonization with International Standards, by ensure that national laws are aligned with international human rights standards, such as the Convention on the Elimination of all forms of discrimination Against Women (CEDAW) and the Istanbul Convention.

By strengthening this existing law on gender based violence, there should be the amendments and updates, of the regularly review and amend existing laws to close any legal gaps, address new forms of Gender Based Violence and enhance protections for victims, for example, updating definitions of rape to include marital rape and broadening the scope of sexual harassment laws, by incorporation of Gender Perspectives, such as integrate a gender perspective into all relevant laws, including criminal standing alone without using others laws like law n° 68/2018 of 30/08/2018 determining offences and penalties in general, civil, and family laws, to ensure that they adequately address the specific needs and vulnerabilities of women and girls.

#### **3.1.2. Legislation that prevent, protect and criminalizes violence against women and children**



Legislation that criminalizes violence against women codifies the rights of women and child to live free of violence, laws can play an important symbolic role, by indicating that such behavior is socially unacceptable,

Article 2, suffrage of Constitution of the Republic of Rwanda the official Gazette n° Special of 04/08/2023, all Rwandans, both women and men, fulfilling the requirements provided for by law, have the right to vote and to be elected.

Article 10, fundamental principles, building a State governed by the rule of law, a pluralistic democratic Government, equality of all Rwandans and between women and men which is affirmed by women occupying at least 30% of positions in decision-making organs.

Article 56, obligations of political organizations, political organizations must always reflect the unity of Rwandans as well as equality and complementarity of women and men in the recruitment of members, in establishing their leadership organs, and in their functioning and activities.

Article 140, national commissions, specialized organs, national councils and public institutions, National Women Council;

Article 5 of law n°71/2018 of 31/08/2018 relating to the protection of the child, quality of children, all children are provided with equal protection without any discrimination. However, the adoption of special measures and strategies for children with specific problems is not considered to be a form of discrimination.

Article 13, provisional placement of a child, the national organ in charge of children collects information about the acts of violence or mistreatments committed against the child. Based on information gathered, the national organ in charge of children may request from the competent court permission to provisionally take the child away from the custodial family. Upon approval by the competent court, the national organ in charge of children, provisionally takes the child away from the custodial family and places him/her in another family or in a social welfare institution willing to provisionally receive him/her. However, in case where waiting for the decision of the court on provisional placement of a child may dangerously be harmful to his/her health, the national organ in charge of children, in collaboration with local government authorities, promptly finds a place for the residence of the child, before making the request for placement to the court. In this case, the organ files the case to the competent court within seven (7) working days from the

decision of the provisional placement of the child. Such an issue is considered by summary proceedings<sup>86</sup>.

This strategy, even if the law is there but, Rwanda is still facing the problem of street children.

Article 5 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office in Rwanda provides the general responsibilities of the Office In general, the Office has the following responsibilities:

1° monitoring and carrying out evaluation on a permanent basis of compliance with gender indicators intended to respect gender in the context of the vision of sustainable national development and serving as a reference point on matters relating to gender equality and equity;

2° submitting to various institutions recommendations relating to the program of gender promotion in national development;

3° monitoring the respect of the principle of gender in national development and submit to the Cabinet its annual programme of action and the activity reports and reserve copies to other State organs mentioned in Article 21 of this Law

Article 6, stipulates the specific responsibilities of the Office in particular, the Office has the following responsibilities:

1° monitoring on how the fundamental principles of gender are respected in all organs at governmental, private, non-governmental and religious levels;

2° examining and monitoring the national policy and programs intended at ensuring the promotion of gender equality;

3° monitoring the existence of the policy, programs as well as different projects aimed at promoting gender equality, their implementation and the system of their budget allocation;

4° ensuring the implementation of the international agreements and programs relating to the respect of the principles of gender;

5° fighting against gender-based injustice and violence;

6° advocating for the respect of gender equality at all levels;

7° raising awareness for all institutions and the population to build a nation which respects principles of gender;

8° disseminating national Laws and international Conventions aimed at promoting gender;

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<sup>86</sup> Article 5 and 13 of law n°71/2018 of 31/08/2018 relating to the protection of the child

9° providing, upon request or at own initiative, opinion on the draft laws, policy and strategy documents or any other decisions relating to gender equality;

10° encouraging all institutions to mainstream and to respect gender equality in all their programs;

11° carrying out research based on statistics on specific issues in the framework of mainstreaming and respecting the principles of gender and disseminating the results after analysis;

12° developing gender awareness indicators in all sectors;

13° identifying where there is gender-based inequalities in all national bodies and providing a way to rectify them;

14° proposing to the relevant administrative institutions the strategies to be taken in order to avoid violations of gender equality;

15° advising all institutions to respect the principles of gender equality;

But, there still a problem where people can not distinguish between gender and women, when you speak gender, they under understand women, girls, boy and men, generally speaking, they understand sexual aspect, female or male.

article 4 of the law no36/2018 of 29/06/2018 determining the organization of education stipulates the eliminate all grounds and obstacles that hinder the development of girls and women education as well as of any other groups that need special attention.

Article 10 of the law n° 001/2020 of 02/02/2020 amending law n° 32/2016 of 28/08/2016 governing persons and family, declaration of birth of a child born out of wedlock article 103 of Law n° 32/2016 of 28/08/2016 governing persons and family is amended as follows: “In the child’s parents are not legally married and the child’s birth is registered with the civil registrar who is not in charge of recognition of a child born out of wedlock, the child is registered under the name of his or her mother. The parent under whom the child is not registered first recognizes the child before the civil registrar in charge of child recognition for the child to be registered under his or her name, the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence should focus on the issue of registration of children born out of wedlock, because there exist many issues where father denied to make legal registration of these child, which make the children to be victims of this social mistake, and miss the rights on the father and succession right. The associated sanctions may serve a deterrence function, either or both levers may work in practice to reduce the incidence of violence, it is of course difficult to observe which is more effective, though research does have indirect evidence on both fronts, legislation can also be

responsive to victims, by providing for protection and access to support services, the research investigates the potential and shortcomings of legislative action and how international and national laws can interact with norms in ways that can be conducive to the reduction of the risk of violence, research argues that there has been major progress in establishing the right of women to live free of violence in national laws, especially over the past decade or so, with civil society movements at the local and global levels playing a pivotal role. At the same time, there is some way to go to address the underlying norms and behaviors associated with violence such as the creation of some instruments like.

- The Girls education policy adopted in 2008.
- The Early Child Development Policy adopted in 2015 promotes holistic child development and facilitates young women's mobility and availability for better employment
- The age of consent for marriage is 21 even it is currently in challenge.
- The National Children's Commission was established by law no. 22/2011, as the central government organ with the responsibility for ensuring the protection of children's rights in all areas.
- An annual Girls' Summit was initiated in 2013 to enable girls to express their specific concerns and identify appropriate strategies to address them.
- Since 2005, under the leadership of the First Lady, Madame Jeannette Kagame, Imbuto foundation has awarded 3,400 scholarships to girls in primary and secondary schools and continues to empower them through "excellence clubs", workshops and trainings. In addition, every year, Imbuto Foundation awards outstanding young women in different fields, through Celebrating Young Rwandan Women Achievers (CYRWA) programme.
- The Adolescent Girls Initiative (AGI) project aims at improving skills and incomes to empower disadvantaged adolescent girls and promotes productive employment.
- The parents' evening "umugoroba w'Ababyeyi" was introduced in 2012 to strengthen the family at village level and as an opportunity to pass on messages about national policies such as the elimination of negative and discriminatory attitudes against the girl child.
- Girl Effect Rwanda, through its innovative and participatory Ni Nyampinga initiative seeks to build confidence and leadership capabilities among adolescent girls.
- National women council with its law n°02/2011 of 10/02/2011 determining the responsibilities, organization and functioning of the National Women's Council.

- The Law n°01/2007 of 20/01/2007 relating to the protection of disabled persons in general in its article 3, 18 and 27 which provide that "persons with disabilities shall be entitled to equal rights with others persons and that any form of discrimination or any form of violence against persons with disabilities shall be punished

### **3.1.3. Evolution of relevant laws at the international and national levels**

This section begins with the corpus of international law relevant to gender-based violence ranges from multilateral conferences and conventions, to regional treaties, international declarations and resolutions and jurisprudence of the international criminal tribunals. We look at evidence of how legal and normative developments at the international and regional spheres have affected law-making at the country level, where we observe a tidal wave of countries introducing domestic violence legislation over the past three decades<sup>87</sup>.

### **3.1.4. International law**

International conventions and declarations are important, not least because they have provided specific definitions of what constitutes gender-based violence, which have served to set standards not only globally, but in national legislation, as we shall see below. A key question is whether ratification of international treaties such as CEDAW leads to compliance on the part of states party to the convention. What conditions account for compliance, or not, and do international treaties create domestic pressure, we start by reviewing the relevant treaty law at the international and regional levels, and then highlight a series of influential international declarations, before looking at the role of collective action<sup>88</sup>.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination, this implies all state parties to enact their laws on gender-based violence by being biased tends them toward on one side of the women and child as they are only the victims of gender based violence, research

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<sup>87</sup>ALLEN, R. (2005). Rethinking Crime and Punishment. In: Emsley, C. (Ed.), *The Persistent Prison. Problems, Images and Alternatives*. London: Francis Boutle Publishers, p. 214–239

<sup>88</sup> Johan Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research*, 6 , no. 3 (1969): p.167-191

start by reviewing the relevant treaty law at the international and regional levels, and then highlight a series of influential international declarations, before looking at the role of collective action<sup>89</sup>.

Treaty law is the supreme source of international law, and state accountability and responsibility are at the heart of treaties. States party are required to take actions to realize the rights enumerated in the treaties to which they have signed up. This section highlights the key international treaties related to gender-based violence, before turning to the associated jurisprudence. The International Covenant on Civil and Political Rights, which entered into force in 1976, prohibits discrimination on the basis of sex. It has been argued that the prohibition against "inhuman or degrading treatment in the ICCPR should be interpreted as a prohibition of violence against women, the 1979 Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW") was a major step forward in establishing key rights for women, and has to date been ratified by 188 States, this obliges States to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women<sup>90</sup>.

The original CEDAW did not explicitly prohibit violence against women, but rather outlawed "discrimination against women in all its forms."<sup>15</sup> Subsequent recommendations issued by the CEDAW Committee, which oversees States' compliance with the Convention, have explicitly defined "discrimination" to include violence against women. Specifically, the Committee's General Recommendation No. 19 (1992) broadly defines discrimination to incorporate gender-based violence including physical, mental or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty. This recommendation also clarifies that States may also "be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation<sup>91</sup>.

This implies that States are responsible for inaction in preventing acts of gender-based violence acts and discriminatory practices. Periodic reports on CEDAW are presented by national governments to an oversight committee at UN headquarters in New York. Committee members can pose questions to governments, and feedback sent to governments is posted online. The four-year reporting cycle allows governments to report on measures implemented to comply with their

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<sup>89</sup> Ibid

<sup>90</sup> <https://www.hrw.org/reports/1996/Rwanda.htm> .

<sup>91</sup> <http://www.des.ucdavis.edu/faculty/Richerson/BooksOnline/He16-95.pdf>

obligations under the convention. As of 2015, the CEDAW Committee had issued 32 decisions since 2004 addressing gender-based violence. In 2005, for example, the Committee found that Hungary had violated its obligations under CEDAW because it did not provide "the internationally expected and coordinated"<sup>92</sup>.

### **3.1.5. Regional Human Rights Instruments**

Several regional instruments prohibit gender-based violence, given the relatively larger involvement of individual states in the development of regional treaties, such conventions may carry important weight at the national level. Regional monitoring and judicial bodies can also play an important role, as we shall see below, directly relevant to gender-based violence are a major convention in Latin America, a charter in Africa, and a convention for Europe, each of which deserves highlighting. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 1994 ("Convention of Belem do Para") provides guiding principles for a treaty on violence against women, it affirms that women have a right to be free from violence in both the public and private spheres and holds the state accountable to prevent, punish and eradicate violence against women, incorporating a due diligence standard. This was the first Convention directed solely at eliminating violence against women, and the regional court has decided important cases on the subject, as discussed below<sup>93</sup>.

The Protocol to the African Charter on Human and Peoples' Rights, on the Rights of Women in Africa, also known as the Maputo Protocol, prohibits gender-based violence as part of women's rights to life, integrity and security of the person, and dignity, article One defines violence against women as including "all acts perpetrated against women."<sup>19</sup> The Maputo Protocol addresses violence against women in many of its provisions, and establishes legal obligations. Of the 53 member countries in the African Union, 36 countries have signed and ratified the protocol, and another 15 had signed but not ratified, while three states – Botswana, Egypt and Tunisia – have not signed, unlike Latin America, however, the African Charter Court on Human and People's Rights has never issued a judgment on the merits in a case involving violence against women.

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<sup>92</sup> Sherman, L. W. et al., Preventing Crime: What Works, What doesn't What's Promising (1998) National Institution of Justice: Research in Brief, July, p. 19

<sup>93</sup> Buchanan, J., "Police-Prosecutor Teams: Innovations in Several Jurisdictions" National Institute of Justice: Research in Action ( 1989)

Weaknesses include the follow-up institutional arrangements, in terms of the reporting mechanisms and the absence of a specific committee to monitor implementation<sup>94</sup>.

### **3.1.6. The Impact of International Human Rights and Collective Action on National Lawmaking.**

A central question is whether and how being party to an international human rights instrument affects national legislation, policies and practice, the role do other factors play, in particular collective action and when international law is transformed into national law, do legal protections correlate to better outcomes on the ground, as well as the impact they may bring to society that why national lawmakers focused on women while enacting laws on gender based violence due to influence of international conventions that focused on women<sup>95</sup>.

### **3.1.7. National legislation**

Over the past three decades there has been what might be described as a tidal wave of countries introducing domestic violence legislation, as indicated by the steepness of the gradient in the bar graph below. This began in the mid-1970s, when only one country in the world had legislation in place. Today, in 127 countries have legislation against domestic violence, compared to almost none 25 years ago, but all focused on the said convention, it is important to underline the diversity of ways in which national legislation address domestic violence, Rwanda appears among the countries that do have laws against domestic violence however there is still no legal instrument or article showing how persons entertaining unlawful marriage are succussed in Rwanda<sup>96</sup>.

### **3.1.8. Enhanced law enforcement and Judicial Training**

Capacity Building, provide regular training for law enforcement officers, prosecutors, and judges on GBV laws, victim rights, and gender sensitivity, this training should focus on understanding the dynamics of GBV and handling cases in a victim-centered manner, accountability mechanisms, implement accountability mechanisms to ensure that law enforcement and judicial officials who fail to enforce GBV laws or who perpetrate GBV themselves are held accountable, when

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<sup>94</sup> Ibid

<sup>95</sup> WEF (World Economic Forum) (2013) The Global Gender Gap Report 2013

<sup>96</sup> Watson, J., (2011). Understanding survival sex: young women, homelessness and intimate relationships”, Journal of Youth Studies No 14, Issue 6, pp. 639-655



strengthening Prevention Measures, public awareness Campaigns, conduct nationwide awareness campaigns to educate the public about GBV, its consequences, and the legal protections available, these campaigns should target various audiences, including men and boys, to change harmful gender norms and behaviors, educational Programs, the integrate GBV prevention and gender equality education into school curricula to raise awareness among young people and promote respectful relationships<sup>97</sup>.

### **3.1.9. Legal Protections and Remedies for Victims**

Protection Orders, should ensure that laws provide for the issuance of protection orders to safeguard victims from further harm, these orders should be easy to obtain and enforce, restorative Justice, which explore and implement restorative justice practices where appropriate, ensuring they are victim-centered and promote healing and reconciliation, creating real data Collection and Research as robust data systems by establishment systems for the systematic collection of data on GBV incidents, prosecutions, and outcomes. This data should be disaggregated by sex, age, and other relevant factors, to better conduct a scientific research and evaluation, in order to know at which rate gender-based violence is happen on women and men instead of being one sided Support research on the causes, prevalence, and effects of GBV, as well as the effectiveness of legal and policy responses, where the use of this research shall improve the information and legal frameworks and interventions of persons in charge of gender based violence<sup>98</sup>.

To effectively eliminate all forms of gender-based violence, a multifaceted legal approach is necessary. This approach should encompass comprehensive legislation, robust enforcement mechanisms, specialized institutions, public education, and strong support systems for victims. Continuous monitoring, accountability, and collaboration with stakeholders are also crucial to ensure the effectiveness and sustainability of GBV elimination efforts. By implementing these legal mechanisms, societies can make significant strides toward eradicating GBV and promoting gender equality and justice<sup>99</sup>.

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<sup>97</sup> Alvi, M.H. (2016). A Manual for Selecting Sampling Techniques in Research, University of Karachi, Iqra University. (HPN)/Overseas Development Institute (ODI), No 60, February 2014.

<sup>98</sup> Wirtz A., Pham, K., Glass, N., Loochkartt, S., Kidane, T., Cuspoca, D., Rubenstein, R., Singh, S., and Vu, A (2014) "Gender-based violence in conflict and displacement: qualitative findings from displaced women in Colombia" Conflict and Health, Issue 8 No. 10.

<sup>99</sup> Ibid

## **3.2. Institutional Mechanisms to be undertaken to effectively eliminate all forms gender based violence**

### **3.2.1. Establishing specialized institutions**

According to article 3 of the prime minister's order n°001/03 of 11/01/2012 determining modalities in which government institutions prevent and respond to gender- based violence, in its general Responsibilities of Government Institutions in preventing and fighting Gender Based Violence, all Government institutions shall put in place programs aimed at preventing and fighting against gender-based violence as well as intervening and attending to its victims. Government institutions shall continue to reinforce the anti-gender-based violence committees at all levels with the aim of eliminating gender- based violence<sup>100</sup>.

Article 4: Special responsibilities of Government Institutions in preventing and fighting gender-based violence Government Institutions, in particular Ministries, Public institutions, National Commissions, National Counsels, that may have any connection with the issue of gender based violence, each organ concerned or combined when necessary shall:

- 1° ensure that the attached organs respect government plans of preventing and fighting gender-based violence;
- 2° quickly intervene and assist the victims of gender-based violence;
- 3° devise means for the local government authorities to sensitize the victims of gender-based violence to immediately report to the nearest health facility in order to get required assistance;
- 4° quickly put in place a “One stop center” mechanism in all public and semi-public health facilities and build their capacity;
- 5° pay particular attention to the issue of gender-based violence; put in place a special poverty reduction program for the destitute in order to prevent them from being the target of gender-based violence;
- 7° put in place a mechanism of prevention, protection and fighting against gender-based violence including private and civil society institutions;
- 8° put in place a mechanism of information sharing about gender-based violence;

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<sup>100</sup> Aquino, K., (2014) “Storm of Violence, Surge of struggle: Women in the Aftermath of Typhoon Haiyan (Yolanda)” Asian Center for Women’s Studies, Vol. 20 No. 1, 2014, pp. 148-163.

9° follow up all activities aimed at preventing and fighting against gender-based violence in the whole country and to advise on its eradication;

10° remind everybody to avoid gender- based violence related words and actions with help of the national media;

11° announce public ally in the final judgment the names of those found guilty of gender-based violence; 12° sensitize private media to participate in denouncing gender-based violence;

13° public awareness of laws punishing gender-based violence;

14° sensitize women particularly in preventing gender-based violence and disseminate information whenever it occurs;

15° integrate at all levels in the education curricula a program related to human rights, gender and gender-based violence;

16° train the youth to avoid such recreational activities, behaviors and other indecent acts that may lead to gender-based violence;

17° investigate the nature and the effects of recreational activities that may contradict with good practices or public security and may lead to gender-based violence;

18° put in place measures to prevent gender-based violence that may target children and persons with disabilities;

19° sensitize parents to not allow their children to engage in labor or other acts that can lead to gender-based violence;

20° render justice to the victims of gender-based violence;

21° put in place a sustainable program to sensitize employers and employees to avoid acts that can lead to gender-based violence in the public institution;

22° speed up the execution of decisions from courts and other authorities in order to prevent and fight against gender-based violence.

Article 5: Complaints on the crime of gender-based violence When a case is lodged on gender-based violence, the judicial police shall request the competent authority to expeditiously give the victim the support he/she needs. Investigation on gender-based violence cases shall be speeded up and cases be submitted to the investigation authority within the period provided for by the law. The National Prosecution Authority must give priority to gender – based violence related cases, in order to preserve elements of evidence.

Article 14: Gender based violence at workplace, the labor inspector, at every level, including local and central levels, shall expeditiously and carefully handle problems between employees and employers, to establish whether or not these problems are related to gender – based violence, the labor inspector shall, after establishing that there is a gender-based violence case, immediately inform the nearest judicial authority for the suspect to be prosecuted.

As Rwanda has made significant progress in governance, particularly in the promotion of gender equality and the fight against gender-based violence and corruption. Regarding the fight against corruption, an impressive institutional and legal apparatus has been put in place with the goal of preventing, combating, and promoting transparency. Nonetheless, despite the impressive legal and institutional environment against gender-based (GBC) corruption, this form of corruption still persists in workplaces. Various studies indicate that this form of corruption does exist in Rwanda and its scale cannot be overlooked. It is in this context that Transparency International Rwanda (TI-RW) conducted a survey on gender-based corruption in the workplace. TI-Rw analyzed the current state of the issue and developed evidence-based advocacy messages while also informing policymakers in an effort to reduce GBC in the workplace.

Therefore, people still fear reporting cases of gender-based corruption for further investigations, the respondents also identified the primary causes of gender-based corruption in the workplace. Many people point to causes such as lack of transparency in recruiting and promoting employees and providing other staff benefits, lack of self-confidence and poverty or difficult family living conditions of vulnerable groups with a higher risk of GBC. Some other causes identified by respondents include lack of or limited knowledge about employers' rights and labor law, and lack of transparency in evaluating staff performance. The findings also show that GBC affects the victims in different ways depending where they work. In addition, employees in the private sector are more likely to be victims of gender-based corruption than employees in government institutions, CSOs, or NGOs.

### **3.2.2. Gender-based corruption in the workplace**

People in positions of authority and public trust have misused their power for millennia, attempting to take advantage of others who rely on their favor. When an abuse of power takes the form of a demand for sexual favors, it is referred to as "gender-based corruption". Gender based corruption was experienced by coworkers in the form of sexual harassment and exploitation by

refusing to pay sexual bribes, and/or use sex as a form of "payment." (UNDP, 2016). As reported in various studies, gender-based corruption against women at the workplace is very silent and remains a highly secretive kind of harassment and, sadly, often goes unreported matters. This may be because corruption has traditionally been associated with the payment of monetary bribes and other financial rewards by society, policymakers, and institutions. Yet lurking beneath the surface of petty corruption lies another type of currency which corrupt individuals seek to extract: sex. It occurs when persons in positions of power utilize that power to sexually exploit those who are not entrusted with that power (TI, 2020) and employers have bribed job seekers or employees, particularly women, with employment and promotions in exchange for sex (ILO, 2017).

But when the law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence, in its article 24, it stipulates only the penalty for sexual harassment of one's subordinate and emphasizes on that the employer or any other person guilty of exercising sexual harassment by way of orders, intimidation and terror over a person he/she leads without being specific on above said grounds like corruption, recruitment, promotion, salary increase, etc and then provide punishment as it is<sup>101</sup>.

### **3.2.3. Gender-based corruption at the workplace among men or women**

Around the turn of the millennium, the World Bank commissioned research that revealed linkages between the number of women in positions of authority in various countries and anticorruption measures in those countries, concluded that more women in power meant less corruption. Women in leadership positions, on the other hand, have been proven to be more motivated and committed in resolving issues of corruption that are more personal to them (UNODC, 2020). Corrupt agents could further exacerbate inequality by engaging in discriminatory behaviors that favor or target specific groups. The power imbalance, which is also manifested in terms of gender, makes the impact of corruption on men and women differ. Traditional conceptions such as gender roles and work division, for example, may limit women's economic options, leaving them more vulnerable to abuse (APEC, 2021). In addition, women are disproportionately concentrated in unskilled and labor-intensive activities in commercial agriculture, with few chances for skill advancement. They also constitute a major proportion of contract employees in commercial agriculture, where they

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<sup>101</sup> law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence, in its article 24

are recruited for a variety of duties related to the production (for example, planting, cultivating, and harvesting) of various agricultural goods and crops. It should be noted that these agricultural laborers, many of whom are women, are frequently excluded from national labor laws, rules, and safeguards due to their non-standard employment status, which may include third-party labor contractors<sup>102</sup>.

Moreover, many of them are underserved due to high costs and the difficulties of monitoring agricultural activity (eg. contracted production, temporary workforce, remote locations, spread-out workplaces) (ILO, 2018). Corruption and gender inequality are inextricably linked in many ways. When looking for work or starting a business in both the formal and informal sectors, women face corruption, which inadvertently limits their opportunity to make money or sustain their businesses (SIDA, 2017). According to a study by UNDP, having more women in parliaments and public positions reduces overall corruption and makes it more likely for corruption to be reported (UNDP-SIWI Water, 15 2017). This could confirm a widespread belief among development professionals that women are less corrupt than men. In terms of attitudes, various studies indicate that women tolerate corruption to a lesser extent than men (U4 brief, 2015). According to several studies, women are the social category most exposed to corruption (Basel Institute on Governance, 2017) and they have been identified as particularly vulnerable to corruption since men in rural settings may subject them to ‘gender-based corruption’<sup>103</sup>.

#### **3.2.4. Gender based corruption in the workplace in Rwanda**

Rwanda continues to be one of the world's leading anti-corruption nations. It has enacted a new anti-corruption law (2018) that takes a more active approach to preventing and eliminating corruption in order to achieve good governance (UN/Human Rights Council, 2020). Gender and Family Promotion is one of the cross-cutting themes of the National Strategy for Transformation (NST1), which focuses on interventions aimed at improving women's access to finance, gender mainstreaming in the workplace, and job creation strategies (MIGEPROF, 2021). Additionally, in its Visions 2020 and 2050, the Rwandan government re-affirms its commitment to gender equality and the eradication of gender-based violence in the workplace (GMO, 2018). Gender

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<sup>102</sup> [https://knowledgehub.transparency.org/assets/uploads/kproducts/Overview-ofinternational-fraud-operations-relating-to-corruption\\_U4\\_PR\\_FINAL\\_PDF.pdf](https://knowledgehub.transparency.org/assets/uploads/kproducts/Overview-ofinternational-fraud-operations-relating-to-corruption_U4_PR_FINAL_PDF.pdf)

<sup>103</sup> Transparency International report(2020), Breaking the silence, in Nature Medicine (Vol. 17,

mainstreaming is a method for assisting governments in making better policy and financial decisions in order to achieve gender equality (OECD, 2021), in order to create mechanisms that empower women to take active roles in decision-making and leadership. However, sexual harassment in the workplace is still prevalent in Rwanda, in the form of sexually suggestive language, sexual extortion by superiors, and pressure to perform sexual favors in return for promotions and opportunities (OECD, 2019)<sup>104</sup>.

In Rwanda, sexual harassment by a supervisor to their subordinates is prohibited by Article 8 of the Labour Code, which does not apply for sexual harassment by another employee who is not a supervisor at the workplace (UPR, 2020). According to a large body of previous scholarly works, sextortion is frequent in the education sector and at workplace for achieving various career prospects, job opportunities or training (Mumporeze et al., 2019). Rwanda has ratified the Equal Remuneration Convention of 1951 and the Discrimination (Employment and Occupation) Convention of 1958 of the International Labor Organization<sup>105</sup>.

The Law Regulating Labor guarantees non-discrimination on the basis of gender in the workplace, as well as equal compensation for equal effort. The right to choose one's own employment and occupation is protected by the Constitution, and women are not prevented from working in specific professions or shifts (day or night). Women are entitled to three months of paid maternity leave under the Law on Prevention and Punishment of Gender-Based Violence, and protects pregnant women from being fired as a result of their pregnancy (OECD, 2019). Though Rwanda is making progress toward gender equality through public and private sectors initiatives, the transformative potential of policies aimed at achieving gender equality is limited by deeply rooted social norms, traditional gender norms/roles, and cultural perceptions and practices that perpetuate inequalities and exclusion (USAID, 2019). As a result, women are unable to advance in the workplace, leaving them exposed to gender-based corruption, especially since they are really few in positions of decision-making. women mainly work in low-wage agricultural or informal jobs, where they do not have access to the same benefits or pay levels as males (OECD, 2019)<sup>106</sup>.

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<sup>104</sup> USAID. (2019). Rwanda Gender and Social Inclusion Analysis Report (Issue August).

<sup>105</sup> <https://banyanglobal.com/wp-content/uploads/2019/12/USAID-Rwanda-Gender-andSocial-Inclusion-Analysis-Report.pdf>

<sup>106</sup> UPR. (2020). final assessment report on the implementation of 2015 upr recommendations by the republic of Rwanda final assessment report on the implementation of 2015 upr recommendations by the republic.

As root causes of gender-based corruption in their workplace, indicate that they are among lack of transparency in recruitment and lack of self-confidence among employees are less serious causes of gender-based corruption in the workplace compared to other causes, this is supported by the fact that only 40 to 54% of TI- Rwanda statistics showed that those behaviors are the root cause of GBC in their workplace. However, on the other hand, the majority of more than 70% pointed to lack of transparency in promoting employees and other staff benefits, poverty / difficult family living conditions of vulnerable groups, lack of knowledge about employers' rights or labor law and lack of Transparency in evaluating staff performance as some of the behaviors that fuel gender-based corruption and even contribute to its persistence in the workplace.

The corruption is known for its negative impact on economics such as financial markets, businesses, income, services and social and psychological life at both global and individual levels, Salary reductions and unfair employee transfers, according to the findings, are at the top of the list of the various consequences of gender-based corruption in the workplace, which is, of course, a kind of revenge against those who oppose or refuse to accept gender-based corruption especially in private sectors. Power imbalances between men and women create gender and social roles that expose women to power abuses. The likelihood of women becoming direct victims of gender-based corruption, can be explained by either the level of corruption risk or by gender characteristics (GIZ, 2021), any time that a woman's welfare and opportunities hang in the balance, she may be confronted with demands for sex. If a woman refuses, she risks being denied the means to protect her welfare and that of her family, achieve her aspirations, and assure her full and equal participation in social, economic, and political life. If a woman accedes to the sexual demand, any benefit she receives comes at the cost not only of her human dignity but also result in shame, stigma, health consequences, psychological impact, and other harms associated with sexual abuse, therefore, the same holds true for other categories of people who are vulnerable to gender based corruption<sup>107</sup>.

And the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence define gender-based violence as any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. Such act results in the deprivation of freedom and negative consequences. This violence may be exercised within or outside households them, when it comes to economic harm to somebody just because they are

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<sup>107</sup> APEC. (2021). APEC Policy Support Unit The Role of Women ' s Empowerment in Anticorruption (Issue 39).



female or male, here this law is very soft and silent in regarding to how potential this pervasive is the gender-based violence.

### **5.2.5. Personal experience with of Gender-based corruption in the workplace**

Gender-based corruption occurs when someone with entrusted authority abuses that authority to obtain a sexual favor in exchange for a service or benefit that they have the authority to grant or withhold, as a result, groups in society with less power are more vulnerable to the arbitrary or discretionary use of this power, as well as the consequences of its abuse. In all aspects of women's daily lives, patriarchal power exists, which can expose vulnerable women to gender-based corruption (TI, 2021a), although women appear to be a vulnerable group at risk of gender-based corruption, studies show that women have a weaker voice when it comes to demanding accountability or reporting gender-based cases encountered (TI, 2016)<sup>108</sup>.

In addition, sexual activities are considered taboo in Rwandan culture, so victims choose to remain silent when encountered with gender-based corruption in the workplaces. However, people who have experienced gender-based corruption rarely speak about it, due to various reasons some of which have been previously mentioned in this report. Thus, investigating gender-based corruption through participant testimonies is difficult due to respondents' fear of testifying themselves. Some participants may find it difficult to report their personal experience with gender-based corruption cases to researchers, even if precautions are taken to assure anonymity or confidentiality. In addition, some victims also may not want their family or friends to know that they have been subjected to gender-based corruption, in spite of this, the study sought to hear from those who personally experienced gender-based corruption in the workplace<sup>109</sup>.

Therefore, as there is specialized court in commercial matters, there should be specialized Courts and judicial Units as Isange one stop center created to handle GBV cases, these courts should be equipped with trained personnel who are sensitive to the needs of GBV victims, the Victim Support Services, which establish and fund comprehensive support services, including shelters, hotlines, counseling, and legal aid, these services should be accessible to all victims, including those in remote areas. Engaging Stakeholders and Building Partnerships, Civil Society Engagement,

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<sup>108</sup> ILO. (2017). violence and harassment against women and men in the world of work.

<sup>109</sup> MIGEPROF. (2021). Revised National Gender Policy, Accelerating the Effectiveness of Gender Mainstreaming and Accountability for National Transformation.

involve civil society organizations, including women's rights groups and survivor networks, in the development, implementation, and monitoring of GBV laws and policies, International Cooperation: Collaborate with international organizations, donor agencies, and other countries to share best practices, resources, and technical assistance in combating GBV, monitoring and Accountability, independent Oversight Bodies: Establish independent bodies to monitor the implementation of GBV laws and policies, investigate complaints, and recommend corrective actions, which regular Reporting and require regular reporting by relevant government agencies on their efforts to combat GBV, including progress made, challenges encountered, and future plans<sup>110</sup>.

### **3.2.6. National Institutional Framework on GBV**

The key government institution charged with coordination of GBV prevention and response interventions is; The Government of Rwanda has committed to build a society that gives and respects everyone's rights. The country considers gender equality as a strategy for the respect of human rights, democracy and good governance for sustainable development. To strategically position itself towards achieving these goals, the Government has put in place laws, policies, strategies and regulations in addition to domestication of different regional and international commitments as well as establishment of institutions mandated to promote gender equality between men and women, boys and girls. To ensure compliance and effective implementation of the various national, regional and international commitments, the Government of Rwanda established the Gender Monitoring Office through the Constitution of the Republic of Rwanda 2023, with a mandate to monitor the respect of Gender Equality principles, promote gender accountability at all levels and fight against Gender-Based Violence and related injustices<sup>111</sup>.

### **3.2.7. Mechanisms that Can Be Taken by the Rwanda National Police (RNP) to Combat Gender-Based Violence (GBV)**

The Rwanda National Police (RNP) plays a crucial role in combating gender-based violence (GBV), where it enhances its effectiveness in this area, the RNP can implement the following mechanisms such as Gender Desks exist in the Rwanda National Police and in the Rwanda Defense

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<sup>110</sup> Ibid

<sup>111</sup> <https://www.gmo.gov.rw/about-gmo/overview>

Force, with staff that has received special training on GBV. The Gender Desks provide services to victims and, in many cases, are the first point of reference at the Police station. Additionally, each District has an Access to Justice Office (AJO) or Maison d'Accès à la Justice (MAJ). One of the three staff in the AJO is specifically in charge of the fight against GBV. Several toll-free telephone hotlines are available for emergency calls, reporting crimes or accessing information – through the Rwandan National Police, the Rwandan Defense Force and the Prosecutor's Office. Extensive efforts are underway to enhance the capacity of law enforcement and medical/psychosocial professionals working in the Gender Desks, the One-Stop Centers and in the AJO/MAJ.

There are also a number of organizations, both from the public and civil society sector which provide legal assistance to GBV victims. Medical and psychological assistance is provided to GBV victims by the existing health infrastructure, this assistance includes, but is not limited to HIV testing, counseling, emergency contraceptives, anti-tetanus vaccines and the referral system between health center and Police during the consultation to collect evidence which can be used in court. Medical assistance is free for victims of sexual violence, but this support needs to be expanded to all GBV victims. Service providers in GBV receive training on orientation and care to victims and on collaboration with other key stakeholders such as the Police, the commitment of the Government of Rwanda is to have zero tolerance to gender based violence; therefore, a policy to prevent and respond to gender-based violence supports the realization of overall development objectives.

### **3.2.8. Ministry of Internal Security**

This Ministry, particularly through the Rwanda National Police, will oversee the expansion of gender-based violence programming to ensure that all communities have full access to rapid response and user-friendly services in relation to gender-based violence. The ministry will also ensure community mobilization in relation to its GBV programming (e.g. Toll-free telephone lines) through the framework of the community policing strategy.

### **3.2.9. Mechanisms that Can Be Taken by the Rwanda Investigation Bureau (RIB) to Combat Gender-Based Violence (GBV)**

The Rwanda Investigation Bureau (RIB) is a crucial institution in the fight against gender-based violence (GBV), o enhances its effectiveness, its mandate as it is in article 9 of the law n°12/2017 of 07/04/2017 establishing the Rwanda investigation bureau and determining its mission, powers, organization and functioning, it has following mission:

1° to prevent and pre-empt criminal acts by identifying and investigating all kinds of physical or cyber-attacks;

2° to conduct an investigation intended to identify, stop and dismantle existing or emerging criminal acts and cartels whose activities threaten or may threaten the country, people and properties;

3° to gather, analyses, assess and preserve information on the findings of investigation and evidences of committed or planned criminal acts;

4° to locate and apprehend national and foreign suspects and fugitives for violations of criminal laws, in accordance with the relevant laws; to design and implement counter terrorism initiatives and carry out investigations on terrorism in order to fight against it;

6° to establish and manage a criminal investigation information system in order to have an information database that may be based on for setting up criminal justice related policies and programs;

7° to use, where necessary, forensic analysis of criminal evidence to provide technical and scientific assistance in criminal investigations and any other assistance that may be needed;

8° to establish and implement outreach programs aiming at ensuring partnerships and information sharing between RIB and the community;

9° to participate in inter-agencies law enforcement initiatives which address crime problems at a regional and international level;

10° to ensure the security of victims and witnesses.

However, as provided by the prime minister's order n°001/03 of 11/01/2012 determining modalities in which government institutions prevent and respond to gender- based violence, in its article 5,wher the said prime Ministerial order stipulates that the investigation on gender-based violence cases shall be speeded up and cases be submitted to the investigation authority within the period provided for by the law, and the National Prosecution Authority must give priority to gender – based violence related cases, in order to preserve elements of evidence, is not efficiently and

effectively obeyed as it in this law, where the law specifically the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence should focus on this issue in its articles<sup>112</sup>.

### **3.2.9.1. Specialized Training and Capacity Building**

Continuous Professional Development, provide ongoing training programs for investigators on the legal and psychological aspects of GBV victims, this includes understanding the complexities of GBV, evidence collection, and victim interviewing techniques, sensitivity and Trauma-Informed Training, ensure all investigators receive training on gender sensitivity, cultural competence, and trauma-informed care to handle GBV cases with empathy and respect, specialized Investigation Units, which create dedicated units within RIB, NPPA as well as the Courts staff that specialize in investigating GBV cases, these units should be equipped with the necessary resources and staffed by trained professionals, child Protection Units, establish units focused specifically on GBV cases involving children, ensuring that investigators are trained in child protection and child-friendly interviewing techniques<sup>113</sup>.

### **3.2.9.2. Victim Support and Protection Services**

Comprehensive Victim Assistance, which develop comprehensive support services for GBV victims, including legal aid, medical care, psychological counseling, and safe shelter, confidential Reporting and mechanisms that create secure and confidential reporting channels, such as hotlines and online platforms, to encourage victims to come forward without fear of retaliation, witness Protection Programs used to implement robust witness protection programs to safeguard victims and witnesses from intimidation and harm, Public Awareness and Community Engagement, awareness Campaigns that used to conduct public campaigns to educate the community about GBV, legal rights, and available support services, these campaigns should aim to change societal attitudes towards GBV<sup>114</sup>.

### **3.2.9.3. Community Partnerships**

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<sup>112</sup> Rwanda. (2009). Corruption and Governance in Africa. In Corruption and Governance in Rwanda: Vol. I (Issue November)

<sup>113</sup> [http://www.ajjernet.com/journals/Vol\\_3\\_No\\_9\\_visited](http://www.ajjernet.com/journals/Vol_3_No_9_visited) on 7th June 2024/12.pdf

<sup>114</sup> <http://journalistsresource.org/studies/government/criminal-justice/surveillance-cameras-and-crime>

Collaborate with local leaders, NGOs, and community organizations to build a network of support for GBV victims and promote community-based interventions, as mechanism used to enhanced data Collection and Analysis, robust Data Systems, develop and maintain comprehensive databases to track GBV incidents, case progress, and outcomes. This data should be used to inform policy decisions and improve investigation processes, make regular Reporting and publish periodic reports on GBV statistics and the effectiveness of RIB interventions to increase transparency and accountability<sup>115</sup>.

#### **3.2.9.4. Interagency Collaboration**

Multi-Sectoral Coordination: Foster collaboration with other government agencies, the judiciary, health services, and civil society organizations to provide a holistic response to GBV, and legal and judicial Coordination: Work closely with prosecutors and the judiciary to ensure that GBV cases are prosecuted effectively and that victims receive justice, the policy development and implementation, Standard Operating Procedures (SOPs) and develop clear SOPs for investigating GBV cases, from initial report to prosecution. Ensure all investigators are trained in these procedures, victim-Centered Policies and implement policies that prioritize the safety, dignity, and well-being of GBV victims throughout the investigation process<sup>116</sup>.

#### **3.2.9.5. Technological Innovations**

Digital Reporting Tools, that utilize technology to create digital platforms for reporting GBV incidents, tracking case progress, and providing information to victims, forensic Technology which invest in forensic technology and training to improve the collection and analysis of evidence in GBV cases, conduct performance audits, by conduct regular internal audits and reviews to assess the effectiveness of GBV investigations and make necessary improvements, and feedback Mechanisms as establish mechanisms for victims and the public to provide feedback on RIB's handling of GBV cases, ensuring continuous improvement based on real experiences. The Rwanda Investigation Bureau (RIB) can play a transformative role in combating gender-based violence by

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<sup>115</sup> Ibid

<sup>116</sup> <http://www.garlikov.com/Punishment.html> visited on 2nd June 2024

implementing specialized training, establishing dedicated units, enhancing victim support services, and fostering community engagement, by leveraging data, technology, and interagency collaboration, RIB can create a more effective and responsive system for investigating and addressing GBV, these measures will help ensure justice for victims and contribute to the broader goal of eliminating GBV in Rwanda.

### **3.2.10. Mechanisms that Can Be Taken by the National Public Prosecution Authority (NPPA) to Combat Gender-Based Violence (GBV)**

The National Public Prosecution Authority (NPPA) plays a crucial role in the fight against gender-based violence (GBV) by ensuring that perpetrators are held accountable and that justice is served, as it is in Constitution of the Republic of Rwanda in its article 143, the National Public Prosecution Authority is responsible for investigating and prosecuting offences throughout the country.

According to article 3 of the law n°014/2018 of 04/04/2018 determining the organization, functioning and competence of the national public prosecution authority and of the military prosecution department, it has Responsibilities of to investigating and prosecuting crimes related to gender-based violence, child abuse and family crimes among others, but when it comes to chapter v of the law n°68/2018 of 30/08/2018

determining offences and penalties in general at sexual offences and offences against morality such as rape there incompatibilities between the articles of this law and the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence where Article 134 law n°68/2018 of 30/08/2018

determining offences and penalties in general, stipulates that a person who causes another person to perform any of the following acts without consent by use of force, threats, trickery or by use of authority over that person or who does so on grounds of vulnerability of the victim, commits an offence.

1° insertion of a sexual organ of a person into a sexual organ, anus or mouth of another person;  
2° insertion of any organ of a person or any other object into a sexual organ or anus of another person.

Any person who is convicted of rape is liable to imprisonment for a term of not less than ten (10) years but not more than fifteen (15) years and a fine of not less than one million Rwandan francs (FRW 1,000,000) but not more than two million Rwandan francs (FRW 2,000,000) If rape was

committed on a person aged over sixty-five (65) years, a person with a disability or illness that makes him/her unable to defend himself/herself, the penalty is imprisonment for a term of more than fifteen (15) years but less than twenty (20) years and a fine of not less than one million Rwandan francs (FRW 1,000,000) but not more than two million Rwandan francs (FRW 2,000,000).

If rape resulted into an incurable illness or disability, the offender is liable to imprisonment for a term of more than twenty (20) years but not more than twenty-five (25) years and a fine of not less than five hundred thousand Rwandan francs (FRW 500,000) but not more than one million Rwandan francs (FRW 1,000,000).

The penalty is life imprisonment if rape: 1° was committed by more than one person;

2° resulted into death of the victim;

3° was committed on a relative up to the second level. 4° was committed with intention to infect the victim with an incurable illness.

And the Article 16 the law n°59/2008 of 10/09/2008 on prevention and punishment of gender-based violence, stipulates that any person who is guilty with rape shall be liable to imprisonment of ten (10) years to fifteen (15) years. Where rape has resulted in a bodily or a mental illness, the person guilty with rape shall be liable to imprisonment of fifteen (15) years to twenty (20) years and medical care fees for the person raped shall be borne by him/her. Where rape has resulted in a terminal illness or death, the guilty person shall be liable to life imprisonment<sup>117</sup>.

Article 5 of the law n°68/2018 of 30/08/2018 determining offences and penalties in general, law applied in case of several laws applicable to the same offence, stipulates that when several laws punish the same offence, the specific law takes precedence over the general law, unless the law provides otherwise.

Article 147 and 148 of the law n° 027/2019 of 19/09/2019 relating to the criminal procedure stipulates that trial of a minor and his or her co-accused and minor aged above fourteen (14) years but below eighteen (18) years is tried in accordance with rules of general law and where necessary, the prosecutor can issue all necessary warrants or order judicial supervision in compliance with rules of general law, this means that the incompatibilities may undermine that gender based violence cases due to high volume of cases that National public prosecution receive a dad<sup>118</sup>.

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<sup>117</sup> Article 16 the law n°59/2008 of 10/09/2008 on prevention and punishment of gender- based violence

<sup>118</sup> Article 147 and 148 of the law n° 027/2019 of 19/09/2019 relating to the criminal procedure



### **3.2.10.1. Specialized Training for Prosecutors**

Continuous Education Programs, implement ongoing training programs focused on the legal, social, and psychological aspects of GBV to equip prosecutors with the necessary knowledge and skills, trauma-Informed Approaches, train prosecutors on trauma-informed approaches to handle GBV cases sensitively and effectively, ensuring that victims are treated with empathy and respect throughout the legal process, specialized Prosecution Units, create specialized units within the NPPA dedicated to handling GBV cases, the units should have prosecutors who are specifically trained and experienced in dealing with GBV issues.

Child Protection Units: Establish units focused on GBV cases involving children, ensuring prosecutors are trained in child-friendly legal procedures and advocacy. The National Public Prosecution Authority (NPPA) can significantly enhance its role in combating gender-based violence by implementing specialized training, establishing dedicated units, and fostering interagency collaboration, by prioritizing victim support, leveraging technology, and engaging in public awareness campaigns, the NPPA can create a more effective and responsive system for prosecuting GBV cases, where these measures will help ensure justice for victims and contribute to the broader goal of eliminating GBV in Rwanda<sup>119</sup>.

### **3.2.10.2. Mechanisms that Can Be Taken by the Judiciary to Combat Gender-Based Violence (GBV)**

The judiciary has a critical role in ensuring justice for victims of gender-based violence (GBV). Effective judicial mechanisms can significantly enhance the protection of victims and the accountability of perpetrators. Ongoing Education, which provide continuous education programs for judges and court staff on the legal, social, and psychological dimensions of GBV, trauma-Informed Judicial Practices as well as training judges and court staff in trauma-informed practices to handle GBV cases with sensitivity and understanding, minimizing re-traumatization of victims<sup>120</sup>.

### **3.2.10.3. Establishment of Specialized Courts or Sessions on GBV**

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<sup>119</sup> <https://www.ncjrs.gov/ondcppubs/publications/pdf/ncj181056.pdf> visited on 1st June, 2024

<sup>120</sup> Ibid

Dedicated GBV Courts, which establish specialized courts or dedicated sessions within existing courts to handle GBV cases exclusively. This ensures that cases are dealt with by trained and experienced judges, fast-track procedures, implement fast-track procedures for GBV cases to ensure timely justice, reducing the emotional and financial burden on victims. Victim Support Services within the Judicial System, court-based support services, develop support services within the courts, including legal aid, counseling, and child care facilities for victims and witnesses, victim advocates, employ victim advocates within the judicial system to provide continuous support and guidance to GBV victims throughout the legal process, by implementing specialized training, establishing dedicated courts or sessions, and enhancing victim support services, the judiciary can significantly improve its handling of gender-based violence cases as confidentiality and protection measures, coupled with public awareness initiatives and interagency collaboration, are essential for building trust and ensuring justice for victims, through the use of technology and robust data management, the judiciary can increase efficiency and transparency in GBV case handling. Regular monitoring and evaluation will ensure that these mechanisms are effective and continuously improved, ultimately contributing to the eradication of GBV in Rwanda<sup>121</sup>.

#### **3.2.10.4. Mechanisms That Can Be Taken by Local Government to Combat Gender-Based Violence (GBV)**

Local governments play a crucial role in addressing gender-based violence (GBV) by implementing community-based strategies and ensuring that national policies and laws are effectively executed at the grassroots level, public awareness campaigns which launch continuous public awareness campaigns to educate communities about the prevalence, forms, and consequences of GBV, use various platforms, including social media, community meetings, and local radio stations, the school Programs and integrate GBV education into school curricula to educate young people about gender equality and respectful relationships from an early age, the local governments have a vital role in combating gender-based violence through the implementation of community-based programs, support services, and effective enforcement of laws and policies. By fostering community awareness, building the capacity of local authorities, ensuring multi-sectoral coordination, and promoting economic empowerment, local governments

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<sup>121</sup> Violence Against Women. United Nations. 2013

can create an environment where GBV is actively prevented, and survivors receive the support they need. Continuous monitoring, data collection, and advocacy are essential to sustain these efforts and drive meaningful change towards gender equality and the elimination of GBV in communities<sup>122</sup>.

### **3.2.10.5. Mechanisms That NGOs Can Implement to Combat Gender-Based Violence (GBV)**

Non-governmental organizations (NGOs) play a crucial role in addressing gender-based violence (GBV) by providing support services, advocacy, and community outreach, crisis intervention, offer immediate crisis intervention services, including hotlines, counseling, and emergency shelters, for GBV survivors seeking assistance, legal aid and advocacy, provide legal assistance, including advice, representation, and advocacy, to GBV survivors navigating the justice system, and ensure access to medical care, including forensic examinations and treatment for injuries, for GBV survivors, the NGOs play a critical role in the global effort to combat gender-based violence by providing direct support services, advocating for policy change, raising awareness, and empowering communities. By implementing these mechanisms and collaborating with other stakeholders, NGOs can contribute to creating a world free from gender-based violence where all individuals can live with dignity, safety, and equality<sup>123</sup>.

### **3.2.10.6. Gender Monitoring Offices.**

can play a significant role in combating gender-based violence (GBV) by monitoring and addressing instances of violence, promoting gender equality, and advocating for policy changes, Monitoring and Reporting, it should establish a system for monitoring GBV cases, including collecting data on prevalence, types of violence, and demographics of survivors, analyze and report on trends and patterns of GBV to identify areas for intervention and policy reform, collaborate with law enforcement agencies, health facilities, and community organizations to improve data collection and reporting mechanisms.

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<sup>122</sup> Umubyeyi, A., Persson, M., Mogren, I., Krantz, G. "Gender Inequality Prevents Abused Women from Seeking Care Despite Protection Given in Gender-Based Violence Legislation: A Qualitative Study from Rwanda." PLoS One 6, no. 11 (2016). P.10-1371

<sup>123</sup> Beck, T. (1999), Using Gender-Sensitive Indicators: A Reference Manual for Governments and Other Stakeholders, Kent: Commonwealth Secretariat

Policy Advocacy, it should advocate for the development and implementation of gender-sensitive policies and legislation to prevent and respond to GBV, lobby for the allocation of resources and funding to support GBV prevention programs, survivor support services, and legal aid initiatives, engage with government officials, legislators, and other stakeholders to raise awareness about GBV issues and promote policy changes, provide legal aid services and advocacy support to GBV survivors seeking justice and protection.

Advocate for the enforcement of existing laws and the adoption of new legislation to strengthen legal protections for survivors and hold perpetrators accountable, support survivor-centered approaches to legal proceedings, including providing emotional support, safety planning, and accompaniment throughout the legal process, by implementing these mechanisms, GMOs can contribute to the prevention of GBV, the protection of survivors, and the promotion of gender equality and human rights in their communities<sup>124</sup>.

### **3.2.10.7.the Ministry of Gender and Family Promotion.**

plays a crucial role in addressing gender-based violence (GBV) and promoting gender equality in Rwanda,

develop and implement gender-sensitive policies and strategies to prevent and respond to GBV, including national action plans, guidelines, and protocols, ensure coordination and collaboration among government agencies, civil society organizations, and other stakeholders to implement GBV prevention and response programs effectively, provide training and capacity-building initiatives for government officials, service providers, and community leaders on GBV prevention, survivor support, and gender equality, strengthen the capacity of MIGEPROF staff and partner organizations to monitor and evaluate GBV programs, collect data, and conduct research on GBV issues, conduct public awareness campaigns to challenge harmful gender norms and stereotypes, raise awareness about GBV, and promote gender equality and women's rights, advocate for the adoption and enforcement of laws and policies that protect the rights of women and girls, including laws against domestic violence, sexual assault, and harmful practices, establish and support GBV prevention and response services, including shelters, hotlines, counseling services, and legal aid clinics, for survivors of GBV, ensure the accessibility and availability of comprehensive support

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<sup>124</sup> Article 6 of the law n° 51/2007 of 20/09/2007 determining the responsibilities, organization and functioning of the gender monitoring office

services for survivors, including medical care, psychosocial support, legal assistance, and economic empowerment programs, conduct research and data collection to assess the prevalence and impact of GBV, identify risk factors and vulnerabilities, and inform evidence-based interventions and policies, strengthen the collection and analysis of sex-disaggregated data on GBV to improve understanding of the scope and nature of the problem and tailor responses accordingly, forge partnerships with government agencies, civil society organizations, international partners, and other stakeholders to coordinate efforts to prevent and respond to GBV, participate in regional and international forums and initiatives to share experiences, best practices, and lessons learned in addressing GBV and promoting gender equality, implementing these mechanisms, MIGEPROF can contribute to the prevention of GBV, the protection of survivors, and the promotion of gender equality and women's empowerment in Rwanda<sup>125</sup>.

### **3.2.10.8.the Ministry of Justice**

Ministry of Justice plays a vital role in addressing gender-based violence (GBV) and ensuring access to justice for survivors in Rwanda, article 146, of Constitution of Republic of Rwanda the National Public Prosecution<sup>126</sup>.

Authority is under the supervision of the minister in charge of justice, legal Framework and Policy Development, it should review and strengthen existing laws and policies related to GBV to ensure they are comprehensive, gender-sensitive, and aligned with international human rights standards, develop and implement legal reforms to address gaps in the legal framework and enhance protections for survivors of GBV, including domestic violence, sexual assault, and harmful practices<sup>127</sup>.

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<sup>125</sup> Adams, Sullivan, Bybee, &Greeson, (2008), 'Development of the scale of economic abuse', Violence against Women, vol. 14, no. 5, pp. 563-88.

<sup>126</sup> Clark, Janine N. "The Three Rs: retributive justice, restorative justice, and reconciliation." Contemporary Justice Review 11, no.4 (2008), p38.

<sup>127</sup> Amick, 2011, 73; De Brouwer, A. L. M., Ruwebana, E. "The legacy of the Gacaca courts in Rwanda: Survivors' views." International Criminal Law Review, 13, no. 5 (2013): 955

Law Enforcement and Criminal Justice Response, it should enhance the capacity of law enforcement agencies, prosecutors, and judges to effectively investigate, prosecute, and adjudicate cases of GBV, establish specialized units within the police and judiciary to handle GBV cases sensitively and professionally, ensuring survivors receive timely and appropriate support and justice, provide legal aid services and representation for survivors of GBV, particularly those from marginalized and vulnerable communities, to access justice and navigate the legal system, establish victim support services, including counseling, referral to social services, and assistance with protection orders, to address the needs of GBV survivors throughout the legal process, implementing these mechanisms, MINIJUST can contribute to the prevention of GBV, the protection of survivors' rights, and the promotion of a fair and effective justice system in Rwanda<sup>128</sup>.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

- Rwanda has made significant strides in addressing gender-based violence (GBV) through a robust legal framework and comprehensive policy measures, through the enactment of laws such as the law n<sup>o</sup>. 59/2008 of 10/09/2008 on Prevention and Punishment of Gender-Based Violence and the establishment of institutional mechanisms for enforcement have been critical in the fight against GBV, however, the assessment of these laws reveals both achievements and ongoing challenges.
- Rwanda made observable achievements, such as in making legal and Policy Framework, where Rwanda's legal framework for addressing GBV is comprehensive, encompassing various forms of violence including domestic violence, sexual harassment, and harmful traditional practices.

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<sup>128</sup> Article 146 of Constitution of Republic of Rwanda

- The existence of these laws reflects the government's commitment to protecting the rights of women and other vulnerable groups, institutional Mechanisms, used to establish some relevant institutions to improve the response to GBV cases, like initiatives of Isange One Stop Centers provide holistic support to survivors, including medical, legal, and psychological services.
- Public Awareness and Education, such national campaigns and community-based programs have increased public awareness about GBV and the legal remedies available, these efforts have contributed to a cultural shift towards zero tolerance for violence against women and children.
- Support Services, the availability of support services, including legal aid and counseling, has empowered survivors to seek justice and rebuild their lives. These services play a crucial role in the overall effectiveness of the legal framework.
- Unless key challenges continue to be observed in implementation Gaps, despite the comprehensive legal framework, gaps in implementation remain. Challenges such as inadequate resources, lack of training for law enforcement personnel, and limited coordination among agencies hinder effective enforcement of GBV laws.
- Access to Justice, where many survivors still face barriers in accessing justice, including stigma, fear of retaliation, and socio-economic constraints, it should be necessary to ensure that all survivors, particularly those from marginalized communities, can seek and receive justice is crucial.
- Data Collection and Monitoring, reliable data on the prevalence and patterns of GBV is essential for informed policy-making, current data collection mechanisms need strengthening to provide accurate and timely information on GBV incidents and the effectiveness of interventions.
- Cultural Norms and Attitudes, deep-rooted cultural norms and attitudes that perpetuate gender inequality continue to pose significant challenges, ongoing efforts are needed to address these societal factors through education, community engagement, and legal reforms.

## **Recommendations**

### **To the Government and Ministry of Gender and Family**

- There might be a campaign to raise the awareness of the population as it was revealed that some cases are not reported or reported late due the culture of silence.
- Government should synchronize responsibilities of all organs in charge of GBV cases as the studies indicated that there is an overlap of responsibilities.
- increase training programs in order to expanded and ensure that all personnel are equipped to handle GBV cases sensitively and effectively.
- Enhance Data Collection, establish robust data collection and monitoring systems to track GBV incidents and evaluate the impact of legal and policy measures, this data should inform ongoing efforts to refine and strengthen the legal framework.
- Address Cultural Barriers, continue to challenge harmful cultural norms and promote gender equality, engage community leaders, religious institutions, and civil society organizations in these efforts.
- It was fund that the GBV cases delayed in handling, therefore, it is recommended for Government institutions such as Executive organs staff to speed up the execution of decisions from courts and other authorities in order to prevent and fight against gender-based violence.
- Investigation on gender-based violence cases shall be speeded up and cases be submitted to the investigation authority within the period provided for by the law.
- The National Prosecution Authority must give priority to gender – based violence related cases, in order to preserve elements of evidence.

### **To legislatures and justice sectors**

- To enhance the effectiveness of GBV laws in Rwanda, the following recommendations are proposed.
- Strengthen Implementation, increase funding and resources for law enforcement and judicial bodies to improve the implementation of GBV laws,
- Improve Access to Justice, develop targeted interventions to remove barriers faced by survivors in accessing justice, this includes providing free legal aid, expanding support services, and implementing witness protection programs.



- Policy and Legal Reforms, periodically review and update GBV laws and policies to ensure they remain relevant and effective, this includes closing any legal loopholes and addressing emerging forms of GBV, such amending the article 39 of the law n°. 59/2008 of 10/09/2008 on Prevention and Punishment of Gender-Based Violence, in order it clear enough by trying best way of eliminating all loopholes GBV definitions especially on aspect of psychological and economic harm to somebody just because they are female or male with focus of the succession aspect persons entertaining unlawful marriage.

#### **To the Civil societies and other stakeholders**

- It was found out that the victims do not have a common understanding about the way to go by whenever they want to seek for help pertaining to violence not involving physical harm, economic harm, sexual harm and body harm, it is therefore recommended to raise their awareness on different ways and means to use when they seek assistance in line with violence not involving physical harm.
- The research revealed that GBV service providers are limited in comparison of what is needed to deliver therefore there is a need to engage and sensitize all relevant stakeholders through an expanded stakeholders, advocacy meetings involving state officials, selected service providers, community heads, police, legal officers, community leaders, CSOs, CBOs and FBOs, and the population at grassroots level etc so that they may be involved and work hand in hand for fighting against GBV and have clear common understanding on this pervasive issue.
- It was found out that the staff in charge of GBV issues across organizations need the assistance both in terms of materials and training to enhance their efficiency, therefore, it is recommended to put much emphasize on building their capacity so that they may deliver effectively their services
- The population must be sensitized that any reported GBV cases must be followed up the end point where the final decision and justice is delivered rather than stopping the follow up in a half way.
- It was fund that the GBV cases delayed in handling the complaints on the crime of gender-based violence, therefore it is advised that when the case is lodged on gender-based violence, the judicial police shall request the competent authority to expeditiously give the victim the support he/she needs.

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